

**CLERK OF THE COURT OF COMMON PLEAS
AUTO TITLE DIVISION**



**JOHN O'GRADY
CLERK OF COURTS**

Dear Title Customer:

This manual was prepared by our office and is provided for your use and reference; we feel it is a good overview of the many different processes and regulations for issuing titles. However, throughout the course of a year, many changes in procedure may take place due to legislation or new direction from the Bureau of Motor Vehicles, Department of Taxation or Department of Natural Resources. For instance, Senate Bill 59 went into effect last year, which allows for you to have your title work done in any county in Ohio. As changes occur, our office will make every attempt to keep you informed in a timely manner.

Though titling procedures throughout the eighty-eight counties in Ohio are basically uniform, certain policies may differ from county to county. The following direction applies only to paperwork filed in Franklin County.

I hope that this manual provides you with some helpful information about the procedures of titling automobiles and watercraft. For additional information or clarification, please do not hesitate to call our customer service phone line at (614) 462-3090. Or, stop in one of our branches; we have locations in all four corners of Franklin County. They are listed on the next page.

The Franklin County Clerk of Courts office issues more titles than any other county in the state—in 2002, we issued over 650,000 titles. Our Title office has strived, and will continue to work hard, to meet your needs as quickly and cordially as possible. We continue to set goals, such as a dealer turnaround time of 4 hours or less, to ensure that we are not only the busiest, but also the best, title office in Ohio.

Thank you for choosing the Franklin County Clerk of Courts for your title work. We appreciate your business.

Sincerely,

John O'Grady
Clerk of Courts

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Title Fees

Archive Fee ¹ (Manufactured Homes, House Trailers, Built Homes only)	\$5.00
Cancellation of Lien	NO FEE
Duplicate Title	\$5.00
Late Fee	\$5.00
Lien Notation (on existing title)	\$10.00
Lien Notation (with title transfer)	\$5.00
Memorandum Certificate	\$5.00
Original Title	\$5.00
Out of State Inspection	\$1.50
Replacement Title	\$5.00
Salvage Title ² (Watercraft).	\$5.00
Salvage Title ³ (Motor Vehicle)	\$4.00
Sworn Affidavit	\$1.00

**Fees apply to motor vehicle and watercraft titles unless otherwise noted*

APPLICATIONS FOR TITLE

The title application is used to provide accurate and essential information in applying for the issuance of various types of titles. It is important that the information on this application be precise and legible.

¹ Applies to all types of titles (originals, duplicates, replacements, etc.) for titles issued prior to **04-09-01**.
original title types issued on or after **04-09-01** are subject to the fee.

² No charge when issued to law enforcement (issued only for abandoned watercraft)

³ No charge when issued to law enforcement

In all cases, regardless of type of title being applied for, the applicant's name, address and social security number (or employer's identification number, in the case of a company) as well as the vehicle or watercraft information must be completed on this form.

When the evidence being presented is an Ohio title, the application is on the back of the certificate of title (the lower portion). This must be used in place of a separate form.

Original Title Application

This information will be used in applying for the issuance of the first Ohio title. The application must be accompanied by evidence of ownership. The evidence will probably be one of the following:

- ☒ Manufacturer's Certificate of Origin
- ☒ Out-of-State Title
- ☒ Foreign Registration
- ☒ Court Order

The *NAME* used on the application should be the applicant's legal name including any epithet such as Jr., Sr., III, etc. In the case of an applicant who has no legal first or middle name, the name must read as follows:

J. R. Doe (Initials Only)

Abbreviations of names or nicknames are not acceptable. A married woman cannot apply as "Mrs. John R. Doe"; she must use her own given first name such as "Marie A. Doe".

A company, corporation, organization, etc. must use the full and legal name as it appears on the charter registered with the Secretary of State's office.

The *SOCIAL SECURITY NUMBER* or *EMPLOYER'S IDENTIFICATION NUMBER* (in the case of a company) must be entered on the application for title. All applicable social security numbers must be entered when two or more people are applying.

The *ADDRESS* should be the complete, legal address of the individual or company, including the county of residence. In the case of an individual, this should be the address of his/her residence. A post office box is not acceptable for address purposes. Postal zone numbers are meant for post office use only and have no significance to Ohio title law.

If there is to be a *LIEN* on the vehicle, fill in the lien holder's complete name and address on the application. If there is to be no lien, the word "none" must be stated.

The *PURCHASE PRICE*, *TRADE-IN* (if any), *TAX BASE*, *GROSS TAX* and, in the case of a sale by an Ohio dealer or vendor, the *NET TAX PAID* must be entered. Care should be taken to see that all figures are correctly entered. All taxable items should be included in the purchase price (extended warranty, luxury tax and documentary fees, etc.).

If the individual or company is claiming a *TAX EXEMPTION*, check the appropriate box on the application and state the basis for exemption. A copy of the most recent tax directive is enclosed in this manual for your guidance.

In the case of a dealer sale, enter the *DEALER'S PERMIT NUMBER* and *VENDOR'S NUMBER*. The permit number should be complete with any -01*, -02, -03, etc. that is needed to have the title reflect the name as the dealer wants it to appear. In the case of a vehicle being sold to a leasing or rental company, this space on the application should be reserved for the leasing or rental company's permit and/or vendor's number. Please note that a rental company is not issued a dealer's permit number. Only a vendor's number is to be entered in this space for rentals.

The *APPLICANT'S SIGNATURE* must be exactly as the name of the owner appears at the top of the application. When the legal name of the applicant consists of initials only, that legend must appear after the applicant's signature.

When a title is being applied for in the name of an organization or company, the company name must appear with the signature of the individual acting on behalf of the company. The person signing on behalf of the company must state their position with the company or in what capacity they are signing such as "title clerk", "office manager", "power of attorney", etc. In the case of someone signing by "power of attorney", the power of attorney form must accompany the paperwork to our office. **For sample form, see exhibit "A".**

Replacement Title Application

A title application is only required in the instance when a title has been defaced during the execution of a casual sale. The application should be completed, signed by the titled owner and notarized.

Duplicate Title Application

In the event that an original title is lost, stolen or destroyed, any Clerk of Courts' office can issue a duplicate title.

The process is expedited if the original title number is provided on this application. If you do not have access to the original title number, you can call our office for this information.

If there is an open lien on our records, the lienholder must apply for the duplicate title. You can also furnish our office with a notarized statement of discharge and an application for duplicate completed by the customer.

The law no longer requires the odometer reading on the duplicate application.

The application must be signed and notarized. Remember, the top portion of the application (name, address, and vehicle or watercraft description) must always be completed. **For sample form, see exhibit "B".**

Memorandum Certificate Application

If the memorandum certificate is being applied for in conjunction with the issuance of a new title, the title number is not needed on this form. If you are applying for a memorandum on an existing title, furnish the title number (whenever possible) in the space provided.

Please note that if a title is being issued as "tax-exempt to an out-of-state resident", no memorandum certificate will be issued. The certificate is solely used to purchase Ohio license plates and registrations.

The application must be signed and notarized. Remember, the top portion of the application (name, address, and vehicle or watercraft description) must be completed.

Either the titled owner or the lienholder may apply for a memorandum certificate. The applicant's signature must be notarized. **For sample form, see exhibit "C".**

Salvage Title, Salvage Replacement and Salvage Duplicate Title Application

Complete the required information at the top of the application (name, address, and vehicle description). In the case of a salvage replacement, insert the title number you are surrendering to our office.

This form must be signed and notarized. **For sample form, see exhibit "D".**

OTHER GENERAL INFORMATION

Powers of Attorney

A power of attorney is a legal document giving specific authority to a person to act on behalf of the person who gives this authority.

The signature on any power of attorney should be the same as the signature on other papers required in the transaction. The forms are completed with the necessary information and are notarized.

When a power of attorney is needed to supplement a customer's paperwork, it becomes part of the transaction and must accompany the title to the Clerk of Courts' office for filing.

When someone signs with a general power of attorney, we do not need the original of this document. We will accept a CERTIFIED COPY of the general power of attorney to keep in our files.

A person who has been given power of attorney cannot, in turn, give that power to anyone else.

If a person who has given another individual power of attorney dies, that power of attorney is no longer valid.

For sample form, see exhibit "F".

Notary Information

A notary who is witnessing a signature of a seller on an automobile or watercraft title is witnessing the entire assignment; therefore, the notary should make certain that all pertinent data is completed prior to affixing their signature.

The Ohio Bureau of Motor Vehicles' legal opinion is that "neither the buyer nor seller (except a dealership employee in an assignment from or to a dealership) may notarize an assignment of title. If he does notarize, the subsequent transfer of title is invalid and subject to cancellation under RC 4505.02."

Certificate of Origin (MCO)

This document is made out and furnished by the factory conveying ownership of a new motor vehicle or watercraft to the dealer. It is sometimes referred to as the property's "birth certificate".

The dealer is not required to obtain a title in his name on a new vehicle or watercraft. When the dealer sells the new motor vehicle or watercraft, he transfers or assigns ownership of the vehicle or watercraft on the reverse side of the form. There are several assignments on this form to enable transfer of ownership from dealer to dealer as well as to the retail purchaser.

In the case of motor vehicles, reassignments on the back side of the MCO can only be made to an Ohio new vehicle dealer that is franchised and licensed with the Ohio Bureau of Motor Vehicles to sell that make of vehicle, or to the retail purchaser. Ohio does not have a franchise law with regard to watercraft.

Once an assignment is made to a retail purchaser, the MCO cannot be reassigned. A title must be issued in the name of the purchaser.

Never make any alterations on this document. Obtaining a duplicate MCO can be time consuming and costly.

Verify that you have the proper MCO before making the assignment. The rules discussed under “Application for Title” on the previous pages pertaining to the name and address of the purchaser apply to the assignment on the MCO as well. The MCO and the title application should reflect the same information.

Complete the assignment on the MCO. Enter the dealer’s name and permit number, sign the document and state your position with the dealership (title clerk, office manager, etc.) again keeping in mind the proper way to list your dealer permit number using the -01*, -02, -03, etc. The MCO must be notarized. **For sample forms, see exhibits "G" and "H".**

Certificate of Title

The face of the title shows the issuing county, the county of residence, title number, description of the vehicle or watercraft, the owner’s name and address, lien information, and the type of title (salvage, duplicate, etc.).

The reverse or back of the title is divided into two main parts - the *assignment* and the *application*.

The top portion of the title is the *assignment*, where the owner of a vehicle or watercraft assigns his or her interest to someone else. It is very important that this information be fully completed, including the buyer’s acknowledgment of the odometer statement⁴ (unless a separate federal odometer statement has been provided).

The lower portion of the back of the title is the *application*. This is where the new owner applies for their Ohio title. This information must be accurate and legible and must correspond with the assignment.

All supporting documents must accompany the certificate of title to the Clerk’s office for the issuance of the new title. These supporting documents include, (but not be limited to) powers of attorney, odometer statements, etc. **For sample forms, see exhibits "I" and "J".**

Retail Sale

A retail sale can be defined as a sale from a dealer to an ultimate purchaser.

Always make certain the title you are completing is for the same vehicle or watercraft sold to the customer. Check the year, make, body type, and most important, the serial number.

As stated previously, all information such as purchase price, buyer’s name and address, and mileage (when applicable) must be completed on the assignment portion of the title. The instructions given previously under “Title Application” concerning names and addresses apply.

A dealer cannot sign for the customer using a power of attorney on the buyer’s acknowledgment of the odometer statement; however, a separate odometer statement signed by the customer is acceptable.

The same information should be entered on the application portion of the title as was entered on the assignment.

Be certain that you have the correct name as the lienholder wants it to appear and the address they wish to use. If there isn’t a lien, the word “NONE” must be stated.

The new owner must either sign the title or designate another person power of attorney. The assignment portion of the title must be notarized.

Trade-In Title

When applying for a title in your dealership’s name for a vehicle or watercraft that has been traded-in, always check the face of the title to be certain that all liens have been discharged. When a lien has been discharged, make certain that the lien has been stamped “canceled” by a Clerk of Courts’ office.

⁴ Motor Vehicles Only

Make certain there are no alterations on the title. If a title assignment is altered, a replacement title must be issued.

On a title for a vehicle or watercraft being taken in on trade, the purchase price should be the word “RESALE”.

Your dealership name is entered as the buyer and the mileage declaration is completed, if applicable. If you are going to be signing the actual title for your customer with a power of attorney, a separate federal odometer statement will be required to be signed by your customer. You cannot use a power of attorney for your customer as the buyer or the seller on the odometer statement.

The assignment of title must be notarized, complete with the date of notarization, commission expiration and seal.

The application portion of the title must be completed. Your dealership name and address are inserted as “applicant”.

You must enter your dealer’s permit number completed with the -01*, -02, etc. and your vendor’s number. The block for tax exemption should be marked and the word “Resale- New/Used Dealer” should be listed as the reason for exemption.

In the instance of a watercraft being taken as a trade-in by a motor vehicle dealer, the actual exemption is “Resale – Vendor” and the dealer permit number does not apply. Only the vendor’s number is necessary to transfer the title. For sample form, see exhibit "K".

The word “NONE” must be stated for lien information if there is no lien on the vehicle.

At the applicant’s signature, your dealership name must be entered. Whoever signs for the dealership must include their position or capacity (title clerk, business manager, etc.).

Casual Sale

We consider a casual sale to be a sale between two parties, neither of which is licensed by the Bureau of Motor Vehicles or Division of Watercraft. This could be two individuals, two companies, an individual and a company, etc.

There can be no alterations on the title. If a title is altered, a *replacement title* must be issued. On a casual sale, a replacement title will only be issued after the owner of the vehicle has completed an application. For the purpose of a replacement title, “owner” means the person whose name appears typed on the face of the certificate of title.

The title presented for evidence for transfer must be properly assigned and notarized. A proper assignment includes the selling price, buyer’s legal name and address, the mileage of the vehicle, the seller’s signature, seller’s hand printed name (if federal odometer law applies), the date of notarization, the notary’s signature, expiration date and seal.

If the federal odometer law applies, the buyer’s acknowledgment must be signed and the buyer must also hand print their name.

The application for title must also be properly completed and notarized. The name of the applicant must be the same as the name on the assignment. If the customer has moved between the dates the assignment was made and when the application is being completed, the address can be updated on this application.

The applicant is required to make a statement regarding lien information on every title. If there is to be a lien on the vehicle or watercraft, the lien information must be entered here with the proper name and address of the lienholder. If there is to be no lien, the word “NONE” must be entered.

The application must be signed by the new owner of the vehicle or watercraft or by a designated power of attorney, and the title must be properly notarized.

If the vehicle is subject to the federal odometer law and still has an old, yellow title, a separate federal odometer statement is required.

If there is a purchase price and the customer is declaring that he/she is tax exempt, a tax exemption form may be required.

LIENS

Noting a Lien

To note a lien on an Ohio title, an application for title may be presented indicating the complete name and full address of the secured party in the lien information area. The actual physical security agreement is not required, but may be submitted. The application must be signed by the owner or by a power of attorney appointed by the owner.

If there are two liens recorded on a title and also a statement on the title noting “ADDITIONAL LIENS EXIST”, this indicates that there are more liens entered into the computer system of the Clerk’s office regarding this title.

Canceling a Lien

When a lien is satisfied or “paid off”, the lienholder must release their interest in the vehicle or watercraft on the face of the title. This is done in the lien discharge area of the title. The lienholder enters the name of their institution, and the date of discharge. An authorized person at the financial institution then signs the title. Prior to delivering the title to the owner, the lienholder must present the title to the Clerk of Courts’ office to have the lien cancellation recorded on the face of the certificate of title and on the records of the title in the Clerk’s office.

When a dealer has satisfied the security interest on a title that is being transferred to a dealer, the secured party must discharge the lien on the face of the title. When this is not possible, they must provide the dealer with a sworn statement of discharge from the security interest. The Clerk of Court’s office will record the lien cancellation when presented with either the title or the sworn statement of discharge.

If there are two liens showing on a title and the title also reads “ADDITIONAL LIENS EXIST”, all liens can be canceled at the same time by sending a “LIEN DISCHARGE FORM” for each lien not shown on the face of the certificate or by sending a notarized statement from the lienholder that they have no further interest in the vehicle or watercraft.

If a title becomes lost before a lien is canceled by the Clerk’s office, the lienholder of record must apply for a duplicate title, or the lienholder must give the customer a notarized statement that the lien had been satisfied.

Transfer of Equity

A transfer of equity occurs when ownership is being transferred on a vehicle or watercraft that has an open lien against it. The seller assigns the title, with the lienholder’s permission, to the purchaser in the same manner as with any other transfer. The security agreement and the transfer agreement are submitted to any Clerk of Courts. The lien is not released by the lienholder and it carries forward onto the new owner’s title.

Substitution of Collateral

A substitution of collateral occurs when the owner of a vehicle or watercraft under mortgage wants to substitute one vehicle or watercraft for another as collateral. The lien should be canceled on the title of the original vehicle or watercraft and noted on the new one. The security agreement and a substitution of collateral agreement or an affidavit should be presented to the title office along with the new title.

Lien Holder Reassignment

When a lienholder sells their interest in a vehicle(s) or watercraft to another party, the lien should not be signed off. We must have a security agreement *properly assigned* to the second party. “Properly assigned” means that the first lienholder states on the security agreement that they “assign all rights, title and interest in this

agreement” to the new lienholder. This statement should be signed by someone authorized to sign for the first lienholder and must be notarized.

Repossession Titles

When a titled owner defaults in payment of a mortgage noted on a certificate of title, the lienholder may obtain a repossession title in their name.

Franklin County requires the lienholder to discharge their lien on the face of the title prior to the issuance of a repossession title.

Only the application portion of the back of the title needs to be completed.

The applicant’s name and address are the name and address of the lienholder as shown on the face of the title.

The reason for tax exemption should be stated as “Resale – Financial Institution”.

Lien information must be marked with the word “NONE”.

An authorized representative must sign the title, and must state the company name and their position with the company. The title must then be notarized.

On motor vehicle repossessions, an applicant’s odometer statement must be completed. The second box on the odometer statement is the one that applies to a repossession (operation of law). If the vehicle has not yet been recovered, complete the odometer statement and enter “repossession” in the space for mileage.

The security agreement or a certified copy thereof must be surrendered with the title and odometer statement when applying for a new title.

When a dealer is the one applying for the repossession title as lienholder, the dealer must first get a repossession title and then apply for a resale title, if the vehicle is to be sold from the dealer’s lot. **For sample form, see exhibit "L".**

DEATH OF A VEHICLE OR WATERCRAFT OWNER

Executor of an Estate

A person appointed as executor of an estate cannot convey that power to another individual by way of a power of attorney. In other words, the executor must sign all paperwork himself or herself.

Surviving Spouse

A surviving spouse may elect to transfer an automobile to his/her name without probate court proceedings provided the automobile is not otherwise disposed of by a will. There is no limit as to the value of the vehicle when only one vehicle is transferred in this manner. The surviving spouse can elect to transfer two vehicles provided the vehicles are not otherwise disposed of by a will, provided the combined value of the vehicles does not exceed \$40,000.

Upon the death of a married Ohio resident, a surviving spouse can take title to one boat and/or one outboard motor in the same manner as an automobile.

On a surviving spouse transfer, only the application portion of the back of the title needs to be completed. The surviving spouse’s name must be entered as applicant, lien information must be stated, the basis for tax exemption should be entered as “inheritance”, and the title must be signed and notarized.

No tax is due. No tax form is required. No odometer statement is required.

A surviving spouse affidavit must be completed, signed and notarized and must accompany the certificate of title to our office. **For sample form, see exhibit "M".**

If there is a lien on the decedent's title that is to be transferred forward onto the surviving spouse's title, a memorandum title should be applied for.

The following probate court documents are issued by the Franklin County Probate Court. Please be aware that different documents are issued by different Probate Courts throughout the state. If you have documents from another county that are different from what is listed below, please contact our office.

Inheritance With Administration

If someone has been appointed as executor of an estate, the estate has "administration." The executor is appointed to act on behalf of the deceased party. When transferring a title, the executor would assign the title to a new owner and the assignment must be notarized. The title would be completed in the same manner as signing by power of attorney; however, instead of "power of attorney", the signature line would read "executor". Franklin County Probate Court issues a form called "Application for Transfer of a Motor Vehicle" (Form 9.C) showing to whom the vehicle is to be transferred. This form must accompany the title to our office.

No tax form or odometer statement is required. **For sample form, see exhibit "N".**

Inheritance With No Administration

If no one is appointed to act on behalf of the deceased person, it is a "no administration" estate. Probate Court issues an "Entry Relieving the Estate from Administration" showing whom the vehicle is to be transferred to or, more commonly, simply stamps Form 9.C with a stamp that reads "NO ADMINISTRATION". In this case, the assignment portion of the title does not need to be completed. Only the application portion of the back of the title must be completed, signed and notarized.

No tax form or odometer statement is required. **For sample form, see exhibit "O".**

Purchase From Estate

The executor of the estate assigns the title to the purchaser and the title is notarized. We must have the proper form from Probate Court (Form 9.C) showing that the vehicle is to be transferred to the purchaser.

An odometer statement must be completed in accordance with state or federal law, whichever is applicable.

Tax is due on the purchase price of the vehicle.

Lost Title / Owner Deceased

When a title is lost and the owner of the vehicle is deceased, our office can issue a duplicate title only when someone has been appointed by Probate Court to act on behalf of the decedent. The Court issues "Letters of

Authority”: this allows the executor to sign on behalf of the deceased party to apply for a duplicate title. An executor is appointed on estates that “have administration”. **For sample form, see exhibit "P".**

When no one has been appointed as executor (a “no administration estate”), a duplicate title will not be issued. An original title application is completed in the name of the person listed on the court order as the recipient of the vehicle and our office issues a title directly into this name.

Trusts

There is no requirement for presentation of a copy of the trust agreement for a certificate of title transaction involving the transfer of a motor vehicle to or from a trust. The name of the trust must be entered properly and an authorized trustee must sign the transaction. The rules that apply to a company entity pertain for trusts.

Rights of Survivorship

Where ownership is a joint tenancy, with rights of survivorship, the owners’ names on the title will be shown as follows:

John Doe and Mary Smith, WROS

To transfer ownership or to encumber the vehicle or watercraft, both signatures are required if both are living. If one of the parties is deceased, the survivor applies for a certificate of title with only a copy of the death certificate. Only the application portion of the title needs to be completed, signed, and notarized.

To apply for a title in this manner, the assignment and application should read as follows:

“John Doe and Mary Smith, either as joint tenants with rights of survivorship and not as tenants in common”.

When the applicants sign their name to apply for the title, this statement must be repeated as well.

Transfer on Death

An individual as sole owner of a motor vehicle, watercraft or outboard motor may elect to designate a beneficiary or beneficiaries to an Ohio title.

This process eliminates the need for probate in the event of the owner’s death.

An affidavit to designate a beneficiary must be completed with the beneficiary’s full name, address, social security number and date of birth. The form must be signed by the owner and notarized. **For sample form see exhibit "E"**

The original Ohio title, the affidavit designating the beneficiary and an application for title are submitted to the title office. A replacement title will be issued. This process can also occur on a new transfer.

Upon the death of the owner, the beneficiary submits the title, a certified copy of the death certificate and proper identification to apply for a title in their name.

MOTOR VEHICLES

Body Types

The following list identifies the only body types accepted by Ohio’s Automated Title Processing System (ATPS II). Please refer to this list when completing all title applications.

2D – 2 Door

3D – 3 Door

4D – 4 Door

AM – Ambulance or Hearse

SW – Station Wagon

TC – Truck Camper

TK – Truck

TL – Trailer

BH – Built Home
 HM- Manufactured Home
 MH – Motor Home
 BU – Bus
 AT – All Terrain Vehicle
 PT – Pickup Truck
 HB – Hatchback

TT – Travel Trailer
 UC – Utility Car
 VN - Van⁵
 OR – Off-Road Motorcycle
 CN – Convertible
 MC – Motorcycle

Title Types

Original – This is the first title issued to an owner of a vehicle or watercraft. **Replacement** – This is a title issued in place of another title due to an error on the title (incorrect assignment, typographical error, etc.) *or* because of a change in the characteristic of the title (lien replacement, salvage replacement, etc.).

Duplicate – This type of title is issued when the original has been lost, stolen or destroyed.

Salvage – A salvage title is issued for one of two reasons. The most common is the title that is issued when an insurance company has declared a vehicle to be economically impractical to repair. A salvage title is also issued when a vehicle is subject to an abandoned motor vehicle affidavit by a law enforcement agency. When a salvage title has been issued, a duplicate or replacement can be issued if the need arises. The duplicate or replacement title will still be considered a “salvage title”.

Memorandum Certificate – A memorandum certificate is issued when there is an existing lien against a motor vehicle. The memorandum is used solely to purchase license plates and registration and cannot be used to convey ownership.

Any Clerk of Courts office can issue all of the above title types.






Required Evidence

Each type of title requires its own unique “evidence” from which it can be issued. Clerks of Courts offices are required to keep the evidence surrendered for the issuance of Ohio titles for seven years. For most title types, the “evidence” required is fairly standard. (See the chart below.)

Required Title	Required Application
Salvage Replacement	Title to be Replaced / Salvage App.
Memorandum Certificate	Memorandum Application

ately. The primary piece of
 es the Clerk’s office with
 vs.

Depending on the evidence type, supporting evidence may also be required. The supporting evidence can include, but is not limited to, the following:

-  Odometer Statement – The Federal Statement is required for vehicles less than 10 years old or if the vehicle weighs less than 16,000 lbs. If the vehicle is exempt from federal odometer law, an Ohio odometer statement (Applicant’s or Seller’s affidavit) is required. No vehicle is exempt from Ohio odometer law due to age or weight.
-  Power of Attorney – A person can appoint another person to act on the first person’s behalf by signing a power of attorney form in the presence of a notary public.
-  Out of State Inspection – Any vehicle that was previously titled in another state is required to be inspected for the year, make, model, VIN and mileage prior to an Ohio title being issued.
-  Evidence of security interest – This evidence is simply the full name and address of the secured party stated on the signed title application.
-  Bill of Sale

⁵ This designates all van type vehicles. Upon plating, the registration type such as passenger, commercial or non-commercial will be established

~~✍~~ Receipts – When a title is issued for a self-assembled motor vehicle, the documents presented to the Highway Patrol at the time of inspection must be surrendered to the Clerk of Courts.

~~✍~~ Sworn Statement

In the following few pages, the various evidence types that can be used when applying for an original Ohio title are listed, as well as the required pieces of supporting evidence. Depending on the situation, other supporting evidence may also be needed.

Ohio Title Used as Evidence for an Original Title

An Ohio title is used as the evidence to issue an original title in these instances:

1. The owner of the property is transferring ownership to another by the owner's free will or by someone appointed to act on the owner's behalf. If so;

~~✍~~ Both the top and bottom of the back of the Ohio title must be completed.

~~✍~~ Other than the case of an inheritance where an executor of an estate is assigning the title, the odometer reading is required.

~~✍~~ Other applicable supporting evidence.

2. The property is being transferred by "operation of law" such as an inheritance or repossession. If so;

~~✍~~ Only the application (bottom) portion of the Ohio title must be completed.

~~✍~~ In the case of repossession, the security agreement must be surrendered along with an Applicant's Affidavit for disclosure of the mileage.

~~✍~~ In the instance of an inheritance or bequest, a surviving spouse affidavit or probate court order must be surrendered. No odometer disclosure is required.

~~✍~~ Other applicable supporting evidence varies according to documents presented.

Please call the Customer Service Help Line for additional information.

Non-Ohio Title Used as Evidence for an Original Title

~~✍~~ Out-of-State title in applicant's name or properly assigned to the applicant.

~~✍~~ Out-of-State motor vehicle inspection

~~✍~~ Ohio Title Application

~~✍~~ Other applicable supporting evidence.

Certificate of Origin Used as Evidence for an Original Title

~~✍~~ Properly assigned Certificate of Origin

~~✍~~ Ohio Title Application

~~✍~~ Other applicable supporting evidence

Unclaimed Motor Vehicle Affidavit Used as Evidence for an Original Title

~~✍~~ Properly completed unclaimed motor vehicle affidavit

~~✍~~ Ohio Title Application

~~✍~~ Ohio Applicant's Affidavit for odometer reading

Court Order or BMV Authorization Letter Used as Evidence for an Original Title

Occasionally, the BMV or a court will rule that, though the Clerk of Courts does not have proper evidence to issue a title, a title should be issued to an applicant. In these cases, the BMV or Common Pleas Court exercises its authority to order the Clerk of Courts to issue a title.

~~✍~~ Authorization Letter from BMV or Court Order

~~✍~~ Ohio Title Application

~~✍~~ Other applicable supporting evidence which may or may not include a title

Bill of Sale or Registration Used as Evidence for an Original Title

Since all states do issue certificates of title, the instances where an Ohio title can be issued with the predominant evidence of bill of sale or registration are rare.

~~✍~~ Bill of Sale or Registration

~~✍~~ Ohio Title Application

~~✍~~ Out-of-State inspection

~~☞~~ Other applicable supporting evidence

Highway Patrol Inspection Used as Evidence for an Original Title

- ~~☞~~ Highway Patrol Inspection
- ~~☞~~ Ohio Title Application
- ~~☞~~ Applicant's Affidavit for the odometer reading
- ~~☞~~ Receipts and other items listed on inspection
- ~~☞~~ Other applicable supporting evidence

Affidavit of Ownership Used as Evidence for an Original Title

This would typically be used for an off-road motorcycle or all-terrain vehicle being titled for the first time.

- ~~☞~~ Affidavit of ownership
- ~~☞~~ Ohio Title Application
- ~~☞~~ Out-of-State inspection
- ~~☞~~ Other applicable supporting evidence

Dealer Reassignment Used as Evidence for an Original Title

Many states do not require a dealer to obtain a title in the dealer's name before assigning ownership. In fact, many vehicles are assigned multiple times before a new certificate of title is issued.

- ~~☞~~ Certificate of Title
- ~~☞~~ Attached assignment(s) showing complete chain of ownership
- ~~☞~~ Ohio Title Application
- ~~☞~~ Out-of-State inspection
- ~~☞~~ Other applicable supporting evidence

The preceding should be used as a guide when filling out paperwork. As is noted by the last bullet point under each heading, other supporting evidence may be required depending on the titling circumstances. When in doubt, call the Customer Service Line.

MOTOR VEHICLE TAX

The following terms and their definitions are provided to clarify the text below:

- ~~☞~~ Gross tax = purchase price multiplied by county tax rate.
- ~~☞~~ Vendor discount = gross tax multiplied by .0075
- ~~☞~~ Net tax = gross tax minus vendor discount

Casual Transactions

A casual transaction is a transaction between two parties, neither of which is a licensed motor vehicle dealer.

On a casual transaction, the gross tax amount is remitted to the Clerk of Courts. The current tax rate for Franklin County is 5.75%. Therefore, on a \$100 sale, the tax would be figured as $\$100 \times .0575 = \5.75 .

Dealer Transactions

On a dealer sale, tax is figured on the full purchase price on a used vehicle and on the purchase price minus any trade-in on a new vehicle purchase. The net tax is remitted to the Clerk's office. For example, on a \$15,000 purchase price with no trade-in, the tax would be figured as $\$15,000 \times .0575 = \862.50 , $\$862.50 \times .0075 = \6.47 , $\$862.50 - \$6.47 = \$856.03$. \$856.03 is the amount that would be remitted to the Clerks' office.

Lease Dealer Transactions

At the end of a lease when the leasing dealer sells a vehicle, the leasing dealer is entitled to the vendor discount. The end of the lease buyout would be used for the purchase price. Net tax would be figured the same as in the formula above.

The lease dealer is required to process the paperwork, collect the tax and remit the net tax to the Clerk's office, and provide their customer with an Ohio title.

When a vehicle has been titled as a lease or rental, the title cannot be transferred for ninety days (except to an insurance company in conjunction with an insurance claim).

Central Ohio Transit Authority Tax (COTA)

This $\frac{1}{4}$ of 1% transit sales and use tax, enacted in Franklin County, is part of the current tax rate for Franklin County. Some adjacent counties have small areas that are serviced by COTA and are subject to the tax.

If the physical address is located within the city of Westerville, Reynoldsburg or Columbus and in a county other than Franklin, the $\frac{1}{4}$ % transit tax may apply.

A current list of physical addresses that are affected by this tax can be obtained from the Ohio Dept. of Taxation or from any Franklin County Auto Title office.

Information About Tax Exemption Forms

CASUAL SALES

CONSUMER'S SALES OR USE TAX RETURN- The Ohio Department of Taxation no longer requires a tax form with every casual transaction. They do require a tax form when there is a purchase price and the applicant is claiming they are tax exempt. Please note that when a vehicle is a "gift" there is no purchase price, therefore no tax form would be required.

DEALER SALES

The following exemption certificates must be completed in duplicate with the dealer retaining one copy and the original and one copy sent to the Clerk of Courts' office.

CERTIFICATE OF EXEMPTION REGARDING SALE OF A MOTOR VEHICLE-When an OHIO dealer transfers a vehicle to an individual or company and that individual or company is claiming a tax exemption, this exemption certificate is required. The exemption certificate must state the basis for tax exemption.

An exemption certificate is not required in all tax-exempt transactions.

EXEMPTION CERTIFICATE REGARDING SALE TO AN OUT-OF-STATE RESIDENT- When an individual who lives out-of-state buys a car from an Ohio dealer with the intention of permanently titling and registering the vehicle out-of-state, they are not subject to Ohio sales tax. This exemption certificate must be completed in full. No memorandum title will be issued with this exemption.

Salvage Titles

A salvage vehicle is any vehicle that has been dismantled, destroyed or changed in such a manner that it loses its character as a motor vehicle or a vehicle that is changed in such a manner that it is not the motor vehicle described by the certificate of title.

A title to be replaced by a salvage title must have all liens discharged and canceled. No salvage title can carry a lien.

A new or used car dealer may take title to a salvage vehicle and sell it wholesale but must make the vehicle road worthy before offering the vehicle for sale to an individual. The proper tax exemption in this case would be "salvage wholesale" (SW).

A salvage dealer must obtain a salvage title in their name before it can be offered for sale.

When an insurance company declares a vehicle a total loss and pays the agreed price for the purchase of the vehicle to a claimant, the insurance company must obtain a salvage certificate of title. The insurance company will assign the salvage title to a salvage dealer or any other person as evidence of ownership for sale or disposition of the vehicle. If the insurance company determines the vehicle to be unsalvageable for use on the highway, they shall mark the face of the title "FOR DESTRUCTION". The original title is surrendered to the title department and a photocopy of the title is given to the salvage dealer or scrap metal processing facility for its records.

If an insurance company declares the vehicle impractical to repair, the owner of the vehicle may retain the vehicle but must obtain a salvage title in their name to receive the settlement from the insurance company. When this occurs, the vehicle cannot be driven upon the road until it has been inspected by the highway patrol and re-titled as "Rebuilt Salvage".

A transfer of a salvage title is handled in the same manner as a regular title.

Applicable odometer statements must be completed, and tax is due on any transfer unless the applicant is otherwise exempt from tax.

Odometer Statements

State and federal law require the mileage to be stated by the seller at the time of a title transfer. The federal law does not apply to a vehicle ten or more years old, or to a vehicle with a gross vehicle weight rating of more than 16,000 pounds; however, these vehicles are not exempt for mileage under Ohio law. Determining whether or not a federal odometer statement is needed is to start with the current calendar year and subtract ten. The resulting number equates to the first year that the federal statement is no longer required.

FEDERAL ODOMETER STATEMENT

The federal law requires that the seller state the mileage on a title transfer and that the buyer acknowledge the mileage. To accomplish this, both the buyer and seller must sign and hand print their names on the odometer statement. Type written names are not acceptable.

The same person cannot act on behalf of both the buyer and seller on a federal odometer statement, except in the case of a wholesale, dealer-to-dealer, transfer.

A sale to a leasing company is not considered wholesale; it is considered a retail sale.

The selling or acquiring dealer cannot sign for the purchaser or seller by power of attorney on the odometer statement.

The federal odometer statement does not require notarization. **For sample form, see exhibit "Q".**

SELLER'S AFFIDAVIT

A seller's affidavit is appropriate in order to satisfy Ohio's odometer requirements when a vehicle not covered by federal law is sold.

The seller of the vehicle must sign the form and it must be notarized.

APPLICANT'S AFFIDAVIT

The applicant's affidavit is to be used in very specific instances when a mileage declaration is required in order to obtain a title and the federal odometer statement would be inappropriate.

The applicant's affidavit is to be used on all repossession titles, self-assembled vehicles, unclaimed affidavits and when a vehicle is being converted from out-of-state.

In the case of a sale from out-of-state, federal odometer laws still apply. **For sample form, see exhibit "R".**

Unclaimed Motor Vehicles

BMV 3702-REPAIR GARAGES

Owners of repair garages, storage facilities, body shops, car dealers and gas stations can obtain certificate of title to an abandoned vehicle left for fifteen days, provided that the vehicle is valued at less than \$2500.

The owner of such facility (the custodian) must send a notice to remove said vehicle by certified mail, return receipt requested, to the last known address of the owner.

If the vehicle remains unclaimed for fifteen days, the garage owner submits BMV Form 3702 (Unclaimed Motor Vehicle Affidavit) and \$2.00 to the BMV in Columbus.

If the research done by the BMV shows an outstanding lien on the vehicle, the garage owner shall notify the lienholder by certified mail, return receipt requested, stating where the vehicle is located. If the lienholder does not respond in fifteen days, the lien shall be invalid.

An applicant's odometer affidavit is required to be completed. The second box (operation of law) is the one that applies.

A title application must be completed in the name of the facility.

For sample form, see exhibit "S".

BMV 3701-UNCLAIMED AND ABANDONED JUNK MOTOR VEHICLE AFFIDAVIT

If a vehicle is left unclaimed on private or public property or abandoned as junk on private or public property, the vehicle can be impounded by law enforcement. Law enforcement must submit BMV Form 3701 (Unclaimed and Abandoned Junk Motor Vehicle Affidavit) to the Bureau of Motor Vehicles in Columbus.

Upon return of the affidavit, law enforcement shall notify the owner and/or lienholder where the vehicle is located by certified mail, return receipt requested. If the owner or lienholder does not respond within ten days, ownership shall be forfeited and the lien shall be invalid.

Under Section 4513.60 or Section 4513.61, the affidavit can be assigned to a salvage dealer, scrap metal processor, or other facility under contract to city or county for disposal. Salvage dealers or scrap metal processors need not obtain title in their name if the vehicle is dismantled or destroyed within ten days. Law enforcement may also obtain title and dispose of the vehicle to the same parties or sell at public auction (Section 4513.62).

The law enforcement agency will only be issued a salvage title.

If the vehicle is sold prior to auction, the officer shall complete the assignment at the bottom of BMV Form 3701. Upon presentation of the completed BMV Form 3701, showing compliance with all requirements, the Clerk of Courts shall issue a salvage title only. An applicant's odometer statement must be used.

Under Section 4513.63, the affidavit need not be processed through the BMV if the affidavit is being completed pursuant to this section. The affidavit can be assigned by law enforcement to a licensed salvage dealer or scrap metal processor only (as defined by Chapters 4737 and 4738 of the Ohio Revised Code). This is the only instance that a title is not issued. **For sample form, see exhibit "T".**

Out of State Inspections

If the application for certificate of title refers to a motor vehicle last previously titled or registered outside this state, or if the vehicle is purchased from a dealer whose state allows dealer reassignments, the application must be accompanied by a physical inspection certificate verifying the year, make, body type, manufacturer's serial number (VIN), model and mileage.

The inspections are done by many local dealerships and by all deputy registrars or license agencies. The inspection station charges and collects a fee of \$3.25 for the inspection and the Clerk of Courts' fee is \$1.50 collected when the title is issued.

When an Ohio resident purchases a used vehicle evidenced by out-of-state paperwork and the vehicle cannot be brought to Ohio for inspection, the Clerk of Courts furnishes an inspection form which must be completed by a law enforcement officer or an inspection station which has been authorized as such by the state in which the vehicle is located.

In the case of military personnel, any military officer may inspect the vehicle and complete the form.

No inspection is needed on a title issued from an MCO regardless of where the vehicle was purchased (except in the case of an off-highway motorcycle or all-terrain vehicle). If one of these types of vehicles was sold by anyone other than an authorized Ohio dealer, an inspection certificate is required.

Manufactured Homes

A manufactured home transfer is handled the same as any motor vehicle with the following exceptions:

- ~~/s/~~ No odometer statement is needed.
- ~~/s/~~ A "transfer approval" stamp is required on the face of the certificate of title before the title can be transferred. The stamp is obtained from the treasurer of the county that the manufactured home was located in and is proof that the property taxes have been paid up to date.
- ~~/s/~~ A "conveyance tax" stamp is also required on the face of the certificate of title and is obtained from the county auditor's office.
- ~~/s/~~ On a manufactured or built home purchased on or after 01-01-2000, sales tax is NOT paid to the Clerk of Courts office.
- ~~/s/~~ Every title issued for a manufactured or built home must be assessed a \$5.00 archive fee in addition to the usual title fees. This archive fee is for original titles only (not duplicates, replacements, etc).

Transactions Involving Minors

A minor cannot acquire or sell a vehicle without having a parent or legal guardian sign a "Minor Consent Form".

Ohio law requires that the person signing as parent or guardian provide proper identification to our office at the time the application is presented. For this reason, our office does not distribute the form. **For sample form, see exhibit "U".**

Driver Privacy Protection Act

As a result of a challenge to the Federal Driver Privacy Protection Act, Ohio switched from being an “opt-out” state to an “opt-in” state in June of 2000. This means that all motor vehicle records pertaining to individuals will be considered private unless the owner chooses to allow the record to be public.

RECORD REQUESTS

The federal Driver Privacy Protection Act was passed by Congress in 1994 and was followed by a nearly identical state law (Ohio Revised Code Section 4501.27) that took effect on September 13, 1997. The federal law was written with the intention of protecting individuals’ privacy regarding motor vehicle records. Motor vehicle records include driver’s license records, vehicle registration records and title records.

Previously, all information regarding a motor vehicle title (except the social security number) was available to anyone who requested it. The new law protects an individual’s personal information only. Personal information includes the person’s photograph, social security number, driver or driver’s license number, name, date of birth, telephone number, medical or disability information or a person’s address other than the county and five-digit zip code. This law restricts the personal information our office can give out on our records to only those who qualify as an exception under the law.

By administrative rule, (Ohio Administrative Code [O.A.C.] 4501:1-12-02) our office cannot disclose personal information on any record without the requester completing the Record Request Form, BMV Form 1173. Unless a record is opted-in, you must qualify as one of the 14 exceptions in order to receive the information.

Before returning BMV Form 1173 to our office, please read it carefully. Although you may qualify as one of the exceptions, you may be restricted in what you can do with the information you receive, or you may be required to keep records of any subsequent disclosure you make of the information.

Effective in September of 2000, a peace officer can elect to further restrict his or her motor vehicle record from disclosure. If this is done, our office is prohibited from disclosing the address of a peace officer to anyone or any entity other than to law enforcement personnel.

For sample forms, see exhibit "V" and "W".

WATERCRAFT

The watercraft titling law went into effect on January 1, 1964. This law requires boats 14 feet and over and outboard motors 10 horsepower and greater must be titled. A title is not generally issued on a boat trailer only because titles are not issued to trailers weighing less than 4000 pounds. Effective in 1973, all certificates of origin for boats must have a 12-digit serial number (Hull Identification Number).

Effective 01-01-2000, Ohio law provides for the titling of personal watercraft (commonly called jet skis, wave runners, etc.). A title must be issued for one of these items regardless of length if the motor is 10 horsepower or greater. These vessels are titled as inboard boats.

Effective 07-04-2002, Ohio law requires all watercraft to have a 12-digit hull identification number before it can be titled.

An outboard boat and outboard motor will have two separate titles. Inboard or inboard/outboard boats have one title describing both the boat and motor.

Paperwork is completed and liens are filed in the same manner as motor vehicle titles with two exceptions:

1. No inspection is needed on a boat coming in from out-of state.
2. No odometer statement is required.

Watercraft Tax

The following terms and their definitions are provided to clarify the text below:

- ~~✍~~ Gross tax = purchase price multiplied by county tax rate.
- ~~✍~~ Vendor discount = gross tax multiplied by .0075.
- ~~✍~~ Net tax = gross tax minus vendor discount.

CASUAL TRANSACTIONS

On a casual transaction the gross tax amount is remitted to the Clerk of Courts. Currently, in Franklin County, the gross tax is 5.75% of the purchase price.

VENDOR TRANSACTIONS

On a vendor transaction, the net tax is remitted to the Clerk of Courts. Net tax is the gross tax minus the vendor discount.

DEALER TRANSACTIONS

A watercraft dealer permit number allows a dealer to reduce their customer's tax base by a trade-in on either a *new or used* watercraft. The net tax is remitted to the Clerk of Courts.

BROKER SALES

A broker sale will have the appearance of a casual sale in that the title is being transferred from individual to individual. However, a third party called a "broker" is actually selling the watercraft. In the case of a broker sale, the broker's dealer permit number and/or vendor number must be shown on the title application and the net tax is remitted to the Clerk's office.

Watercraft Insurance Settlements

If a boat is damaged or stolen and, as a result of an insurance claim, an insurance company is assuming ownership, the title is filled out in the same manner as any transfer. The purchase price and basis for exemption should be shown as "Insurance Claim".

The insurance company will be issued a regular title, not a salvage title.

Abandoned Watercraft

PRIVATE PROPERTY

When a watercraft or outboard motor has been left for more than 72 hours without the permission of the property owner or at a marina for longer than the agreed upon time, the watercraft is considered abandoned. The property owner can file a complaint and law enforcement may order the watercraft into storage or have it removed by private tow. If after 30 days the watercraft remains unclaimed, the law enforcement agency begins the process of filing an unclaimed affidavit. This process will result in the law enforcement agency being issued a SALVAGE TITLE, which will permit them to sell it at a public auction, or they may assign the unclaimed affidavit to a marine salvage dealer.

Also, if the watercraft or outboard motor has been left abandoned for six months or more without permission of the property owner, the property owner can request a search of the records of the Division of Watercraft for the name and address of the last known owner and any lienholder. This request must be made in writing and should indicate that the search is in order to hold an auction for sale. The fee for the search is \$2.00 and should accompany the request. When the response is sent by the Division of Watercraft to the property owner, a copy of

the law will be sent explaining the steps to be taken and a list of licensed watercraft dealers in the property owner's county.

A cursory review of the steps involved is as follows:

1. The property owner sends notice to the last owner and/or any lienholder by certified mail, return receipt requested. The property owner must allow 45 days for a response.
2. If the watercraft or outboard motor remains unclaimed, the property owner must obtain a written appraisal of the value from a licensed watercraft dealer. The appraised value must not exceed \$10,000 in order to proceed with this process.
3. The property owner must advertise in a newspaper of general circulation once a week for two consecutive weeks of the intent to sell the item at auction, describing the watercraft or outboard motor.
4. The auction is held and the item is sold to the highest bidder. The property owner may bid at the auction.
5. After the auction sale, the property owner completes an affidavit prescribed by the Division of Watercraft and available at the Clerk's office in triplicate.
6. The property owner provides the purchaser with the affidavit, return receipts and written appraisal.
7. The purchaser presents these to the county title office in the county where the auction was held to apply for a title in their name.

PUBLIC PROPERTY

If a watercraft or outboard motor is sunken, beached or drifting and left for any period of time or left on public property for more than 48 hours without notice to authorities, it is considered abandoned. Law enforcement may order the watercraft into storage or have it removed by private tow. They may then proceed with the unclaimed watercraft process outlined previously.

Law enforcement, or a marine salvage facility possessing an unclaimed affidavit assigned to them by law enforcement, are the only entities ever issued a salvage title under watercraft law.



Sales & Use Tax Division
P.O. Box 530
Columbus, Ohio 43216-0530
www.state.oh.us/tax/

February 21, 2003

IMPORTANT NOTICE

The following sales and use tax rate change will be effective **March 1, 2003** as noted:

Richland County (70) 6.250% TO 6.50%

MOTOR VEHICLE, ALL-PURPOSE VEHICLE, OFF-HIGHWAY MOTORCYCLE, WATERCRAFT, OUTBOARD MOTOR, AND PERSONAL WATERCRAFT DEALERS ONLY: As to the date of sale, our position is the same as it has been in the past in that the rate of tax shall be that which was in effect on the date the vehicle, all-purpose vehicle, off-highway motorcycle, boat or outboard motor was paid for in its entirety, or when the delivery of the item was taken, whichever is first. "Payment in entirety" may be in the form of cash payment or complete execution and approval of the finance papers.

Sales of Automatic Data Processing, Electronic Information Services and Computer Services; Telecommunication Services; Landscape and Lawn Care Services; Private Investigation and Security Services; Building Maintenance and Janitorial Services; Employment Services; Employment Placement Services; and Exterminating Services continue to be subject to the tax rate in effect in the county in which such services are received and the purchaser is located. The tax on these services is to be reported under a Service Vendor's License issued by the Department of Taxation.

NAME	CODE	RATE	Licking (COTA)	See Below	
Adams	01	6.50%	Logan	46 6.50%	
Allen	02	6.00%	Lorain	47 5.75%	
Ashland	03	6.25%	Lucas	48 6.25%	
Ashtabula	04	6.00%	Madison	49 6.25%	
Athens	05	6.25%	Mahoning	50 6.00%	
Auglaize	06	6.50%	Marion	51 6.00%	
Belmont	07	6.50%	Medina	52 5.50%	
Brown	08	6.25%	Meigs	53 6.00%	
Butler	09	5.50%	Mercer	54 6.00%	
Carroll	10	6.00%	Miami	55 6.00%	
Champaign	11	6.00%	Monroe	56 6.50%	
Clark	12	6.00%	Montgomery	57 6.50%	
Clermont	13	6.00%	Morgan	58 6.50%	
Clinton	14	6.00%	Morrow	59 6.50%	
Columbiana	15	6.50%	NAME	CODE	RATE
Coshocton	16	6.00%	Muskingum	60	6.50%
Crawford	17	6.50%	Noble	61	6.50%
Cuyahoga	18	7.00%	Ottawa	62	6.00%
Darke	19	6.00%	Paulding	63	6.50%
Defiance	20	6.00%	Perry	64	6.00%
Delaware	21	6.25%	Pickaway	65	6.50%
Delaware (COTA)	See Below		Pike	66	6.00%
Erie	22	6.00%	Portage	67	6.25%
Fairfield	23	5.75%	Preble	68	6.50%
Fairfield (COTA)	See Below		Putnam	69	6.25%
Fayette	24	6.00%	*Richland	See Below	
Franklin	25	5.75%	Ross	71	6.50%
Fulton	26	6.00%	Sandusky	72	6.00%
Gallia	27	6.25%	Scioto	73	6.50%
Geauga	28	5.50%	Seneca	74	6.00%
Greene	29	6.00%	Shelby	75	6.50%
NAME	CODE	RATE	Stark	76	5.25%
Guernsey	30	6.50%	Summit	77	5.75%
Hamilton	31	6.00%	Trumbull	78	5.50%
Hancock	32	5.50%	Tuscarawas	79	6.00%
Hardin	33	6.00%	Union	80	6.00%
Harrison	34	6.50%	Van Wert	81	6.50%
Henry	35	6.00%	Vinton	82	6.50%
Highland	36	6.00%	Warren	83	6.00%
Hocking	37	6.25%	Washington	84	6.50%
Holmes	38	6.00%	Wayne	85	5.75%
Huron	39	6.50%	Williams	86	6.00%
Jackson	40	6.50%	Wood	87	6.00%
Jefferson	41	6.50%	Wyandot	88	6.00%
Knox	42	6.00%			
Lake	43	5.75%			
Lawrence	44	6.50%			
Licking	45	6.00%			

*** Change effective March 1, 2003**

USE THESE CODES WHEN COMPLETING THE UNIVERSAL SALES TAX RETURN, FORM UST-1.

Richland Code 70, 6.50% - For MARCH 1, 2003 and after (monthly return filers)

Richland Code 270, 6.25% - For JANUARY 1, 2003 THROUGH FEBRUARY 28, 2003 (semiannual return filers) ¹

Richland Code 70, 6.50% - For MARCH 1, 2003 THROUGH JUNE 30, 2003 (semiannual return filers) ¹

¹For semiannual vendors using the Ohio Business Gateway to file the return, Richland County will be listed twice according to the above dates for you to report sales and tax at the appropriate rates.

Delaware (COTA), Code 96, 6.50% - those portions of the Cities of Columbus and Westerville located in Delaware County.

Fairfield (COTA), Code 93, 6.0% - those portions of the Cities of Columbus and Reynoldsburg located in Fairfield County.

Licking (COTA), Code 94, 6.25% - that portion of the City of Reynoldsburg located in Licking County.

Should you have any questions, please call 1-888-405-4039.



Sales & Use Tax Division
P.O. Box 530
Columbus, Ohio 43216-0530
www.state.oh.us/tax/

JANUARY 2003

(revised due to changes to Q's 6, 7 & 8)

To All Ohio Vendors:

The Ohio 124th General Assembly recently passed Amended Substitute House Bill 405, which made significant changes in the way Ohio sales and use tax is applied to the lease of motor vehicles, watercraft, outboard motors, and aircraft. The change in the law also applies to leases of tangible personal property used for business purposes. **Effective February 1, 2002, the sales tax on most leases of these types of property will be computed and paid at the beginning of the lease rather than on the monthly payments.** The following information will explain the changes of the law and how they may apply to your business.

Statutory Law

Section 5739.01 (H) (4) has been added to the definition of "Price". It states:

"In the case of the lease of any motor vehicle designed by the manufacturer to carry a load of not more than one ton, watercraft, outboard motor, or aircraft, or the lease of any tangible personal property, other than motor vehicles designed by the manufacturer to carry a load of more than one ton, to be used by the lessee primarily for business purposes, the sales tax shall be collected by the vendor at the time the lease is consummated and shall be calculated by the vendor on the basis of the total amount to be paid by the lessee under the lease agreement. If the total amount of the consideration for the lease includes amounts that are not calculated at the time the lease is executed, the tax shall be calculated and collected by the vendor at the time such amounts are billed to the lessee. In the case of an open-end lease, the sales tax shall be calculated by the vendor on the basis of the total amount to be paid during the initial fixed term of the lease, and then for each subsequent renewal period as it comes due.

Additions similar to the above were made to the Use Tax code in Section 5741.01 (G) (6).

Section 5739.01 (VV) has been added. It defines the term "lease".

"Lease" means any transfer for a consideration of the possession of and right to use, but not title to, tangible personal property for a fixed period of time greater than twenty-eight days or for an open-ended period of time with a fixed period of more than twenty-eight days.

Explanation

This change in the sales and use tax law applies to qualifying lease contracts entered into on and after February 1, 2002. **The tax will be collected at the time the lease is consummated. Sales and use tax apply to the total amount that will be paid throughout the term of the lease.** Tax on charges that are not or cannot be calculated at

the time the lease is consummated must be collected at the time those charges are billed to the lessee. Examples of this type of charge would be an excess mileage charge or a reimbursement of personal property tax.

There are many questions that arise as a result of the law change. Below you will find questions and answers to assist you in implementing the new law. At a later date, there will be more detailed information available on the Department of Taxation website, www.state.oh.us/tax.

Questions and Answers

Q1) To what items does the new law apply?

A1) The law specifically lists motor vehicles, watercraft, outboard motors and aircraft. (Note the exclusion of motor vehicles designed by the manufacturer to carry a load of more than one ton. A lease of this type of vehicle will still be subject to the tax on each monthly lease payment as treated under prior law). Also included under the new law is “tangible personal property used primarily for business purposes.” This includes, but is not limited to, leases of computers, computer peripherals, canned software, furniture, machinery, plants, wall hangings, communication equipment, and any other personal property used by a business.

Q2) How is the “price” determined for computing sales tax due at the time the lease is consummated?

A2) The price on which to compute the sales tax is the total amount to be paid by the lessee under the lease agreement. The change in the law requires that price includes the sum of all lease payments over the term of the lease. For example, if the lease calls for 48 payments of \$300.00, total payments would be \$14,400.00. “Price” includes this amount. As under prior law, “price” also includes other amounts that represent consideration for the lease of motor vehicles, watercraft, aircraft and other personal property including, but not limited to: down payments, manufacturer rebates, interest, and documentary fees.

Refundable deposits, to the extent those deposits are actually refunded to the lessee, are not part of the price. Should part of the deposit be held at the end of the lease to cover taxable charges and fees, the tax on that amount will be collected at the time the charge is imposed.

Q3) How will trade-ins be handled?

A3) Trade-ins are similar to charges such as down payments or manufacturer rebates in that they reduce the cost of the leased property on which the lease payments are computed. As a general rule, items taken in trade on a sale or lease are part of the price. Tax will apply on trade-in amounts in the same manner as for down payments or manufacturer rebates.

However, under Ohio law, the credit afforded a lessee for a trade-in of a used motor vehicle on the lease of a new motor vehicle is not included in the taxable price of the transaction. Likewise, the credit afforded a lessee for the trade-in of a used watercraft or outboard motor on the lease of a new or used watercraft or outboard motor from a watercraft dealer registered with the Ohio Department of Natural

Resources is not included in the taxable price. In these types of transactions, no tax need be collected on the credit afforded the lessee for the trade-in. If the lessee owes an outstanding balance on the motor vehicle, watercraft or outboard motor that is traded, and that balance is financed as part of the lease, the financed amount is part of the price of the lease.

Q4) Who is responsible for collecting and remitting the tax?

A4) The vendor collects and remits the tax. In the case of the lease of a motor vehicle, the vendor is the dealer with whom the lessee negotiates the transaction and from whom delivery of the leased vehicle is taken. In all other cases, it is the person to whom the down payment or initial lease payment is made. The vendor will pay the tax on the appropriate Ohio sales or use tax return. The vendor is entitled to the .75% discount of the tax for returns that are paid and received in a timely manner.

Q5) When should the tax be collected and remitted?

A5) The tax should be collected at the time the lease is “consummated.” For purposes of sales and use tax, the lease will be considered to be consummated when the property which is the subject of the lease is delivered or the initial payment under the lease is required to be made, whichever is earlier.

Charges payable under the terms of the lease during the period the leased property is being produced, and which compensate the lessor for the cost of acquiring the leased property, are not considered to be the initial payment on the lease. Such charges **are** part of the taxable price of the leased property and tax should be collected and remitted on these charges on the sales or use tax return for the period in which the lease is consummated.

Q6) What is the rate of tax to collect?

A6) Leases of Titled Motor Vehicles – The dealer must collect the tax at the rate of the lessee’s county of residence or business location.

Leases of Watercraft or Outboard Motors by an Ohio Licensed Dealer - If the watercraft or outboard motor is titled in this state and the lessee is an Ohio taxpayer the dealer should collect tax at the rate in effect in the lessee’s county of residence or business location. If the lessee of an Ohio-titled watercraft or outboard motor is an out-of-state resident or business and the watercraft or outboard motor is docked in this state, the tax should be collected at the rate in effect where the watercraft or outboard motor is docked or based. In the case of a federally documented watercraft where the watercraft will be docked or based in Ohio, the dealer should collect tax in accordance with R.C. 5739.033. In the case of any watercraft or outboard motor leased to a nonresident of this state that will be removed from this state for use outside the state, the vendor should refer to the provisions of R.C. 5739.027.

Leases of Aircraft and Leases of Other Personal Property to be Used by the Lessee in Business - The vendor should situs the sale according to the provisions of R.C. 5739.033. Vendors with Ohio locations that operate under regular vendor’s licenses should collect tax at the rate for the county at which the vendor is located and licensed. Leases by in-state vendors without a fixed location where goods are shown to customers for selection

should report tax at the rate in effect at the location where possession of the goods is transferred to the lessee.

Leases by Non-Ohio Sellers Other than Ohio-Licensed Motor Vehicle or Watercraft Dealers – Sellers must collect the tax at the point in Ohio where the property is delivered to the lessee or, if not delivered, at the point the lessee will first use the property in Ohio.

Q7) What is the appropriate sales or use tax account on which to report and pay the tax?

A7) Leases of Motor Vehicles and Ohio-titled Watercraft or Outboard Motors - In-state dealers that facilitate lease transactions will need two accounts to separately report their sales and lease transactions: a regular county vendor's license (license numbers 01-XXXXXX through 88-XXXXXX) and an Ohio transient vendor's license (89-X5XXXX). Out-of-state dealers not licensed with this state should obtain an Ohio seller's use tax account (99-XXXXXX).

Leases of Federally-Documented Watercraft, Leases of Aircraft, and Leases of Other Personal Property to be Used by the Lessee in Business – In-state vendors will report tax on their leases on either a regular vendor's license (01-XXXXXX through 88-XXXXXX), transient vendor's license (89-X5XXXX) or delivery vendor's license (90-XXXXXX), as provided in R.C. 5739.17. Out-of-state sellers leasing these types of property should obtain an Ohio seller's use tax account, (99-XXXXXX).

Q8) What is to be reported on each of the sales and/or use tax returns?

A8) Leases of Motor Vehicles or Ohio-Titled Watercraft or Outboard Motors Where a Dealer Collects the Tax on the Lease Transaction - The dealer is effecting two sales for purposes of reporting on sales and use tax returns. One for the sale of the property to a leasing company and the other for the tax collected on the amount paid for the term of the lease.

For the sale to the leasing company, the sale price should be reported on the return for the dealer's regular vendor's license (Form ST-10) as an exempt sale. The amount of the sale would be reported on Line 1, Gross Sales, and subtracted on Line 2, Exempt Sales.

For the sale to the lessee, the sale and tax will be reported and remitted on the dealer's return for the transient vendor's license (Form UST-1). The amount of the sale and the tax will be shown on the supplemental portion of the return on the line for the county whose tax rate was collected. The sale amount will be included with all other taxable transactions on Line 1, Gross Sales. The amount of the sale is everything included in the "price" as described in the answer to Question 2, above. The amount of tax collected will be included on Line 6. If the lease is not subject to the tax, it should be included on Line 2, Exempt Sales, and not reported on a county line in the supplemental portion of the return.

Leases of Federally-Documented Watercraft, Leases of Aircraft, and Leases of Other Personal Property to be Used by the Lessee in Business - For leases by Ohio vendors where the vendor collects and remits the tax, the tax must be reported and paid on the return for the vendor's county, transient or delivery vendor's license. An out-of-state

leasing vendor in the same situation will report and pay the tax on a seller's use tax account.

Q9) If the lease is terminated prior to the lease term, is there a refund for any of the sales tax previously paid?

A9) No. There is no provision in the Ohio Revised Code for a refund of the tax, unless the entire purchase price is refunded to the customer.

Q10) Is sales tax due on charges that are not or cannot be calculated at the time the lease is consummated?

A10) If the lessor assesses charges for items such as property tax reimbursement, or excessive wear or mileage, either during the lease period or at the end of the lease, sales tax must be collected on these charges at the time they are billed to the lessee. This tax collected should be reported and paid on the lessor's regular sales or use tax return.

Tax is due on any early termination charge unless that charge represents a compensation for the unpaid amounts on the lease that have already been subject to taxation at the consummation of the lease.

Q11) If the lessee decides to purchase the leased property, what is the tax consequence?

A11) If the customer decides to purchase the property, tax should be collected on the purchase price and any other charges associated with the transfer of ownership. For motor vehicles, watercraft and outboard motors, tax should be paid to the Ohio Clerk of Courts at the rate in effect in the customer's county of residence. For other property, the tax should be paid on the leasing company's Ohio transient vendor's License.

Q12) What about existing leases entered into prior to February 1, 2002?

A12) The method of tax collection on these leases will remain the same as under prior law. Tax should be collected on each monthly payment through the end of the lease. Tax should be charged on any fee for the early termination of such a lease. Similarly, additional fees such as property tax reimbursement, or excessive wear or mileage charges would be taxable as they are billed.

Lease contracts entered into prior to February 1, 2002 may provide for extensions of the original lease. If the extension contains the same provisions of the original lease, the tax shall continue to be collected and reported on the monthly lease payments. However, if the provisions of the original lease are changed by the extension, this constitutes a new lease and tax would be collected up front according to the terms of the new lease contract.

Q13) When is a lease "entered into" as it pertains to the February 1, 2002 date?

A13) For purposes of applying the "grandfather" provision of Sub. H.B. 405, the Department of Taxation will consider a lease "entered into" when the parties are obligated to the terms of the lease, the specific motor vehicle, watercraft, outboard motor, aircraft, or tangible personal property that is the subject of the lease is identified, and

steps toward performing the lease have been undertaken. For example, assume that prior to February 1, 2002, a lessor and a lessee have agreed to the lease of an airplane. Also prior to February 1, 2002, an order has been placed and the airplane is being manufactured for delivery to the lessor. In this case, the parties have obligated themselves to the lease, the specific property has been identified and performance has been undertaken by having production of the airplane initiated. This lease would qualify under the grandfather clause as one to be treated under the terms of the law that existed prior to that date.

Often lessors and lessees will enter into agreements whereby a lessor will agree to lease property to a lessee where the specific items that may be subject to the lease are not identified in the agreement or the property leased may change over time. Some examples of this type of agreement may be styled master lease or fleet lease. Many of these contracts have been in existence for many years. In determining the application of the “grandfather” provision to these agreements, the Department of Taxation will look to the date when each specific motor vehicle, watercraft, outboard motor, aircraft, or other tangible personal property was identified and included in the lease. In other words, we will consider each item to be separately leased under the terms of the pre-existing contract. For example, a lessee with an agreement to lease a fleet of motor vehicles from a lessor orders new vehicles to be covered by the lease on March 1, 2002. The lease of these newly identified vehicles would be taxable at the time the lease is consummated on the total amount to be paid under the lease agreement for those vehicles. The existing fleet on January 31, 2002, would continue to be taxed on the monthly installments.

Q14) A lessor may advance the tax money to the lessee and finance the tax over the term of the lease. If this is done, is the repayment of the tax and any interest on that repayment subject to tax?

A14) The repayment of the financed tax and any interest on that financed tax are not part of the tax base of the lease for sales and use tax purposes where the records of the vendor and the lease clearly document the total price on which the tax was calculated and the tax collected on the lease. It would be preferable, though not required, that the financed tax portion of the lessee’s payment be separately stated on lease billings.

Q15) Will existing sales and use tax exemptions and exceptions apply to leased property after February 1, 2002?

A15) Yes. Current exemptions and exceptions based on the use of the item, the identity of the item, or the identity of the purchaser will still apply.

Q16) If the lessee has a Direct Payment Permit, should tax be paid to the vendor at the time the lease is consummated?

A16) No. The Direct Payment holder will report tax on their direct payment tax return.

Q17) Would non-taxable items such as customized software and professional services that are included in the lease of taxable personal property be subject to the tax?

A17) No, provided that the payments for non-taxable items are separately stated within the records of the lease document, and that the records of the vendor and the lease clearly

document the total price on which the tax was calculated and the tax collected on the lease.

Q18) How should tax be calculated on a lease with no definite term?

A18) Tax should be collected on the total amount to be paid for the initial established term of the lease in the manner described in this letter at the time the lease is consummated. Tax should then be collected for each renewal period as payment for that period becomes due.

Q 19) A lessee brings leased equipment into Ohio. The lessor is an out-of-state company and the lease was consummated prior to February 1, 2002. How will this lease be taxed in Ohio?

A 19) Since the lease was entered into (or consummated) prior to February 1, 2002, it will be subject to sales taxation according to the "old law", that is the law prior to HB 405. Assuming the leased equipment is not otherwise exempt from taxation, sales tax is to be collected by the lessor on each of the remaining lease payments, and reported on an out-of-state seller's account

Q 20) A lease is consummated after January 31, 2002, between a lessor and lessee, both of whom are initially located outside Ohio and in a state that taxes leases "up front". Thereafter the leased equipment is brought into Ohio by the lessee. How will such a lease be taxed in Ohio?

A 20) *The balance of the lease charges due after the leased equipment is brought into Ohio will be subject to Ohio's up front sales tax. Credit to Ohio's tax will be given for the other state's sales tax. If the other state's tax equals or exceeds the appropriate Ohio tax, no additional tax will be due.*

Q 21) How should an out-of-state vendor be registered in Ohio?

A 21) *Out-of-state vendors should have an Ohio seller's use tax account. Application for a consumer's use tax account can be obtained on the Internet at www.state.oh.us/tax, or at the Department's Taxpayer Services Division at 1-888-405-4089. See also the addresses and phone numbers on the Department's Internet Web site for the various service centers in the state*

Q 22) What are the consequences to the lessee if an out-of-state vendor is not required to register in Ohio and collect Ohio tax?

A 22) *Out of state vendors are required to register in Ohio and collect Ohio use tax if they have sufficient nexus in this state. See the September, 2001 information release on Nexus standards. Information releases can be found on the Internet at: www.state.oh.us/tax. If the out-of-state vendor does not have sufficient nexus in Ohio and is not required to register as a seller, the lessee must report the tax liability on a consumer's use tax account. Application for a consumer's use tax account can be obtained on the Internet at www.state.oh.us/tax, or at the Department's Taxpayer Services Division at 1-888-405-4089. See also the addresses and phone numbers on the Department's Internet Web site for the various service centers in the state.*

Q 23) Tangible personal property is leased in another state and is brought into Ohio. How is the price of the leased property determined for purposes of taxation?

A 23) The taxable value of tangible personal property, leased in another state and subsequently brought into Ohio within six months after consummation of the lease, will be the entire cost of the lease. The taxable value of tangible personal property, leased in another state and brought into Ohio after six months of the lease consummation, will be the sum of the remaining lease payments to be paid by the lessee under the terms of the lease. In all cases use tax will be due and should be paid by the lessee to the lessor immediately upon the arrival of the leased property into Ohio.

Q 24) Property is leased outside Ohio and sales tax exempt. It is moved into Ohio where it is subject to tax. How is the taxable value of the property determined?

A 24) The taxable value of the lease will be the same as that for Question 5. Use tax would be due and should be paid by the lessee immediately upon the arrival of the property in Ohio.

Q 25) What are some of the charges that are taxable in a lease? What are some of the charges that are exempt?

A 25) These charges are not taxable for leases:

- ✍✍Credit life and disability insurance premiums*
- ✍✍Late charges for payments made after the due date*
- ✍✍Collection/repossession fees*
- ✍✍Assumption fees billed a lessee when the lease is assumed by another lessee*
- ✍✍Legal fees incurred by a lessor for collection proceedings against the lessee*
- ✍✍Interim interest billed the lessee on a loan granted by the lessor prior to lease inception*
- ✍✍Motor vehicle registration fees*
- ✍✍“Non-insurance” fees charged to a lessee that fails to document adequate insurance*
- ✍✍NSF (bad check) fees*
- ✍✍ACH Debit fees*
- ✍✍Parking ticket fees assessed on the leased vehicle and billed to the lessee*

These charges are taxable for leases:

- ✍✍Luxury taxes*
- ✍✍Acquisition fees*
- ✍✍“GAP” or “reverse equity” fees*
- ✍✍Disposition fees determined at lease termination*
- ✍✍Property taxes*
- ✍✍Payment or lease extension fees*
- ✍✍Re-write fees*
- ✍✍Federal excise taxes levied on the lessor*
- ✍✍Administration fees*
- ✍✍Maintenance fees*
- ✍✍UCC search fees*

- ~~✓~~✓ Title search fees
- ~~✓~~✓ Excess wear or mileage fees
- ~~✓~~✓ Turn in fees
- ~~✓~~✓ Other or miscellaneous fees
- ~~✓~~✓ Federal highway use tax levied on the lessor
- ~~✓~~✓ Lien fees, fees for filing a lien against the leased property, when contractually levied on and paid by the lessor but passed on to the lessee

Q 26) How should any component parts of a lease price not subject to sales tax be documented?

A 26) Non taxable charges have to be separately stated on the original lease agreement. This will permit the resolutions of any issues on price should the lease become the subject of an audit.

Q 27) What are the sales tax consequences if a lease terminates prior to the end of the lease term? Is sales tax refundable?

A 27) No credit for or refund of the sales tax paid on the lease is permitted if a lease terminates early.

Q 28) What are the tax consequences when the lease terminates and the lessee purchases the leased item?

A 28) If the lease expires on its termination date according to its schedule, and the lessee buys the leased item the price paid by the lessee to the lessor is subject to sales tax.

If the lease is terminated early so that the lessee has to pay a lease termination charge, (the present value of the remaining lease payments), and the residual price of the leased item, only the residual price of the item is subject to sales tax. Lease termination charges which represent the present value of the remaining lease payments are not subject to sales tax.

Q 29) What are the tax consequences if the lease is renegotiated and:

a. The term, or length, of the lease is changed?

A 29a) This is a new lease and another up front tax is due.

b. Different equipment is leased?

A 29b) This is a new lease and will be subject to another “up front” sales tax charge.

Q 30) Explain how the load capacity of a vehicle is to be determined for purposes of the up front lease exception for vehicles designed to carry more than one ton.

A 30) The up front taxation of leases does not apply to motor vehicles designed by manufacturers to carry more than one ton. Vehicles with a load capacity greater than one ton continue to be taxed as they had prior to HB 405, that is, they continue to be taxed on their periodic payments. The capacity of a vehicle, as designed by a manufacturer, will be the gross vehicle weight less the sum of the empty weight (curb weight) and the occupant weight (150 pounds for the driver and each passenger seat).

Q 31) How should a lease without a definite term be taxed? If the duration of the lease is not stated, or is “open”, how can it be taxed up front?

A 31) Leases of this type must continue to be taxed on each periodic payment. Since a definite term is not stated, the entire amount to be paid for the lease cannot be calculated at its inception. This answer assumes there is no penalty in the contract for early termination of the lease.

Q 32) Some leases are written so that the periodic payments change with a change in their interest rates. How should leases with provisions for variable interest rates be taxed?

*A 32) For a lease wherein the periodic payments can vary according to a national index, e.g. prime rate, over which neither the lessee or lessor has influence, the price of the lease should be based on the interest rate at the inception of the lease. Any increases in monthly payments that result from fluctuations in the national index will **not** result in increases in the price of the lease for sales taxation. Any decreases in the monthly payments that result from fluctuations in the national index will **not** result in decreases in the price of the lease or in the amount of sales tax on the lease.*

However, if a lease makes provision for a variable interest rate, or any variable price component that can be influenced or controlled by the parties to the lease, including options by the lessor to increase the periodic payments at certain interim stages of the lease, e.g. annually, then any increases in the lease price are subject to sales tax.

Q 33) A lease requires an additional charge at termination for excess depreciation or a refund to the lessee if the depreciation is less than anticipated at the time of the lease contract. What are the sales tax consequences?

A 33) Additional charges to the lessee at the termination of a lease are subject to sales tax. A reduction to the price of a lease that is a contingent of the original lease contract, and that is only determined at the expiration of that contract, is a reduction to the price and can result in a credit to the sales tax. Reductions in the original lease price that are renegotiated between the lessor and lessee will not result in credits to sales tax.

Q 34) Does the assignment of a lease to a third party result in a new lease?

A 34) No. The mere assignment of a lease to a third party does not result in a new lease.

Q 35) Does the change in a lessee’s legal status affect a lease? Can it result in a new lease?

A 35) No if the original lease contract is not void or terminated, but remains in place after the change in the lessee’s status, or if the original lease is assigned to the newly created legal entity.

Q 36) Explain how the up front sales tax will apply to TRAC leases with no fixed term.

A 36) Leases with no fixed term must continue to be taxed month to month. Without a fixed term a lease’s total price cannot be determined up front, but will have to be taxed

with each periodic payment. This answer assumes there is no penalty clause in the lease contract for the early termination of the lease.

Q 37) Explain how up front sales tax will be applied to master leases.

A 37) Master leases cover equipment leased immediately and equipment to be leased in the future. As new equipment is acquired by the lessee the periodic lease payment increases. When equipment drops off the master lease, no refund or credit is allowed. When a master lease is consummated the price of the equipment to be leased immediately can be calculated. Thereafter whenever additional equipment to be leased is identified the price of such additional equipment, i.e. the sum of the periodic lease payments and all other taxable components of the newly leased property can also be calculated and taxed. In this way each item of equipment is the subject of a separate up front sales tax charge.

Q 38) What are the sales tax consequences of moving leased property from one county to another? Is additional county or RTA sales or use tax due when leased property is moved to another county?

A 38) Yes if the county into which the property is moved has a higher tax rate.

Q 39) What are the sales tax consequences if during the life of a lease the county in which the equipment is situated changes its tax rate?

A 39) Since the tax is computed and collected at the consummation of the lease, no additional tax will be due based on a rate increase at a future date. Likewise, no refund or credit will be allowed for any reduction in a county or transit authority tax rate. However, if the lessee is obligated to pay additional charges that were not included in the amount taxed at the consummation of the lease, such as an excess mileage or usage fee, after the change in the local rate, those charges will be taxed at the then current rate.

Q 40) Does a vendor who leases motor vehicles, watercraft and outboard motors need a transient vendor's license if it already has a regular vendor's license?

A 40) Lessors of automobiles, watercraft, or outboard motors must have a transient vendor's license. The sales tax on these items is based on the county in which the leased property is situated and is to be reported by the transient vendor on a return that lists the counties in which sales taxes are due.

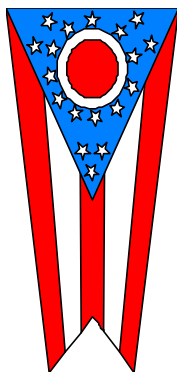
Q 41) Is leased business equipment temporarily stored in Ohio subject to Ohio use tax?

A 41) Whenever leased business equipment is temporarily stored, used, or otherwise consumed in this state it is subject to Ohio use tax. The taxable value of the property is the portion of the total lease amount that can be attributed to Ohio. For example, if business equipment leased for 36 months in another state is temporarily stored or used in Ohio for two months, then transported to a third state, the portion of the total lease amount taxable in Ohio would be two of the 36 lease payments.

Q 42) Should sales tax collected by a vehicle dealer upon consummation of a vehicle lease be paid to a county clerk of courts?

A 42) No, sales tax collected by a vehicle dealer on leased vehicles should be reported and returned to the Ohio Department of Taxation with the universal sales tax return, UST-1.

If you should have any other questions, please contact our Taxpayer Service Center at 1-888-405-4039.



**MOTOR VEHICLE AND WATERCRAFT
SALES & USE TAX**

FREQUENTLY ASKED QUESTIONS



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This is intended as a summary of frequently asked sales and use tax questions on motor vehicles, all-purpose vehicles, off-highway motorcycles, titled watercraft and titled outboard motors with State of Ohio, Department of Taxation, Sales & Use Tax Division responses. The responses can be used as a guide in determining if taxes are due and how they should be paid.

01) Can you provide an updated list of sales tax exception/exemption codes that are available in ATPSII?

AP	All-Purpose Vehicle purchased <u>prior to July 1, 1999</u> (SEE NOTE E)
CF	Commercial Fishing - Watercraft - Com. Fishing License Required
CH	Church
CM	Conversion - Military (Purchased out-state for use out-state)
CO	Court Order Transfer with No Consideration
CS	Consolidation
CV	Conversion
DF	Direct Use - Farming
DM	Direct Use - Mining
DO	Direct Use - Oil & Gas
DP	Direct Pay (Permit Number Required "98-XXXXXX")
DR	Research and Development
DS	Dissolution to Stockholder with No Consideration
DV	Divorce - Court Ordered Transfer with No Consideration
FA	Federal Agency
FD	Foreign Diplomat - Exemption Card Required
HE	Historical - Converted Yellow to ATPS Title, No Change of Ownership
IC	Resale - Insurance Claim
IH	Inheritance with No Consideration, Includes Surviving Spouse
IP	Individual to Partnership with No Consideration
MB	Manufacturer Buy-Back – Lemon Law
MH	Manufactured Homes or Mobile Homes sold <u>on or after January 1, 2000</u> (SEE

NOTE G)

MO	Manufacturing Operation - i.e. Cement Mixer
MR	Corporate Merger with No Consideration
NC	Corporate Name Change
NP	Non-Profit, Charitable or 501(c)(3) Organization
NR	Non-Resident Affidavit, Immediate Removal
OH	Off-highway motorcycle purchased <u>prior to July 1, 1999</u> (SEE NOTE E)
PD	Partnership, Dissolution with No Consideration
PT	Non-Licensed Production Transportation
PU	Direct Use in a Public Utility Service
RD	Resale - Demonstrator (Dealer Permit & VL Required)
RE	Resale - Repossession (effective through June 08, 2000)
RF	Resale – Financial Institution (effective June 9, 2000 - SEE NOTE H)
RI	Resale - Implement/Equipment Dealer (SEE NOTE D)
RL	Resale - Leasing (Dealer Permit & VL Required)
RM	Re-manufacturing - Chassis or Part
RN	Resale - New/Used Dealer (Dealer Permit & VL Required)
RO	Resale – Out-state Leasing (Account Number Required "99-XXXXXX")
RP	Redeemed - Repossession
RR	Resale - Daily Rental (VL Required)
RS	Redeemed - Return Sale
RV	Resale - Watercraft (VL Required)

RW	Resale - Wholesale Only (SEE NOTE A)
SA	Self-Assembled
SP	State/Political Subdivision
SR	Salvage - Resale (Dealer Permit & VL Required)
TD	Transfer on Death Beneficiary
TH	Highway Transportation for Hire (PUCO or ICC Permit Required)
UC	Unclaimed Vehicle by Affidavit
UM	Undisturbed Mortgage
VF	Volunteer Fire Department - Contract Basis
WH	Warehousing - Not Licensed for Highway Use (SEE NOTE C)
WP	Watercraft, Personal - If purchased <u>prior to January 1, 2000</u> (SEE NOTE F)

****** SPECIAL NOTES ******

- A) On **June 24, 1994**, the Department of Taxation made an exemption code available "**RW**: Resale - Wholesale Only."

This exemption code was inserted for the purpose of allowing financial institutions (GMAC, Ford Motor Credit, Chrysler Credit, Etc.) to take title to motor vehicles only for the purposes of selling these vehicles to licensed used motor vehicle dealers.

Effective **August 12, 1996**, the use of this exemption code was again expanded to cover those individuals who purchase a watercraft and/or outboard motor for the sole purpose of renting/leasing it (under contract) to a person, corporation, or club who will then rent or lease the watercraft and/or outboard motor to others. The Department of Taxation would also recommend that the Clerks of Courts obtain a copy of the contract that exists between the purchaser and the other individual, corporation, or club that will be leasing/renting the watercraft and/or outboard motor. Purchaser must provide a properly completed exemption certificate.

- B) On **August 1, 1994**, the Department of Taxation discontinued the use of the exemption code "**TG**: True Gift with No Consideration."

If a person is trying to obtain a certificate of title and say they received the motor vehicle, watercraft, or outboard motor as a "gift," the transaction should be processed as a sale with a purchase price of \$0.00. The system will then issue a title reflecting a purchase price of \$0.00 and taxes paid of \$0.00. This transaction will then be audited by the Department of Taxation's computerized audit program. If tax is found to be due, we will collect the tax or issue an assessment, with applicable penalty, against the new titleholder.

- C) On **January 30, 1996**, the Department of Taxation authorized the use of the exemption code "**WH**: Warehousing - Not Licensed for Highway Use."

Section 5739.01 (E)(12) of the Ohio Revised Code provides for a warehousing exemption for items used in a warehouse, distribution center, or similar facility when it is used to transport purchased inventory which is primarily distributed outside this state to retail stores owned or controlled by the operator of the warehouse, distribution center, or similar facility.

- D) On **June 3, 1996**, the Department of Taxation authorized the use of the exemption code "**DL**: Dealer - Implement/Equipment Dealer."

Farm implement or construction equipment dealers will occasionally acquire a horse, utility, or equipment "trailer" with a gross weight in excess of four thousand pounds, which requires a motor vehicle certificate of title. If the implement or construction equipment dealer is in the business of regularly selling trailers that are required to be titled, they will be licensed as a motor vehicle dealer by the Bureau of Motor Vehicles. Those that only occasionally sell trailers that are required to be titled will not be licensed as a motor vehicle dealer by the Bureau of Motor Vehicles. Nevertheless, the implement or equipment dealer must have a vendor's license as they are making retail sales. Under sales and use tax law, these implement or equipment dealers are entitled to claim the resale exemption on these trailers, so long as they are being acquired for the purposes of resale. These implement or equipment dealers **MUST** submit an exemption certificate with the application for certificate of title using the term "Resale - Implement/Equipment Dealer."

SPECIAL NOTE: This exemption reason does not apply to trailers that are acquired for use by the business in transporting other items (tractors, plows, disc harrows, fertilizer spreaders, combines, bull-dozers, back-hoes, etc.) that are sold by the dealer or other motor vehicles (passenger vehicles, trucks, vans, etc.).

- E) **Effective July 1, 1999**, House Bill 611 changed the status of off-highway motorcycles (OHM's) and all-purpose vehicles (APV's). All OHM's and APV's sold on or after July 1, 1999 are required to be titled and sales/use tax is required to be paid to the Clerks of Courts, unless the purchaser is entitled to claim exception or exemption. Dealer sales of OHM's and APV's prior to July 1, 1999 were subject to Ohio sales/use tax and the tax was required to be collected by the dealer and remitted directly to the Treasurer of State, not to the Clerks of Courts. Non-dealer sales of APV's made prior to July 1, 1999 were also subject to the sales/use tax but again the tax was to be paid to the directly Treasurer of State, not to the Clerks of Courts.

Therefore, no tax should be collected, by Clerks of Courts, on OHM's and APV's **purchased prior to July 1, 1999**. Titles issued on OHM's and APV's purchased prior to July 1, 1999 should be issued using the appropriate ATPS exemption code (**OH** for OHM's or **AP** for APV's)

- F) **Effective January 1, 2000**, the status of personal watercraft changed. All personal watercraft sold on or after January 1, 2000 are required to be titled and sales/use tax is required to be paid to the Clerks of Courts, unless the purchaser is entitled to claim exception or exemption. Dealer sales of personal watercraft prior to January 1, 2000 were subject to Ohio sales/use tax and the tax was required to be collected by the dealer and remitted directly to the Treasurer of State, **not** to the Clerks of Courts. Non-dealer sales of personal watercraft made prior to January 1, 2000 were not subject to the sales/use tax since they were not required to be titled and they qualified for the "casual sale" sales and use tax exemption.

Therefore, Clerks of Courts should collect no tax, on personal watercraft **purchased prior to January 1, 2000**. Titles issued on personal watercraft purchased prior to January 1, 2000 should be issued using the appropriate ATPS exemption code "**WP: Watercraft, Personal - Purchased prior to January 1, 2000**".

- G) Used manufactured homes and mobile homes **sold on or after January 1, 2000** are not subject to sales or use tax. New manufactured homes or mobile homes

sold on or after January 1, 2000 are subject to sales and use tax but the tax base is the dealer's cost and the tax is not paid to Clerks of Courts, it is paid directly to the State of Ohio. Therefore, Clerks of Courts will issue titles without collecting tax if a new or used manufactured or mobile home is sold **on or after January 1, 2000**. The Clerks will use the ATPS exemption code of '**MH: Manufactured Homes or Mobile Homes sold on or after January 1, 2000**' on these title transactions.

Sales of new or used manufactured or mobile homes made prior to January 1, 2000 are subject to sales and use tax and the tax must be collected by Clerks of Courts when the title is issued in the purchaser's name in the purchaser's county of residence.

- H) On June 9, 2000, we authorized the use of the exemption code "**RF: Resale – Financial Institution**" to cover the issuance of a title in the name of a financial institution when: 1) the financial institution is the lien holder, 2) the financial institution is obtaining title to protect its loan, and 3) the financial institution will sell the vehicle to recover all or part of the loan amount. The exemption code RF can also be used by pawnbrokers and by those who finance titled watercraft and titled outboard motors (provided they comply with the three requirements listed above). This exemption code replaces RE
- I) Effective July 23, 2002, House Bill 345 allowed the sole owner of a motor vehicle, watercraft or outboard motor to designate a transfer-on-death beneficiary or beneficiaries. The beneficiary could be an individual, corporation, trust or any other legal entity. Exemption code **TD** was established to transfer the title to the beneficiary without payment of the tax, whether a lien exists on the deceased owner's title or not.

02) Are members of the armed services exempt from sales or use tax?

There is no true "statutory" exemption for members of the armed services.

If the vehicle is purchased in Ohio by a member of the armed services who is a resident of Ohio, **Ohio sales or use tax is due**.

If the vehicle is purchased in Ohio by a member of the armed services who declares that he/she is a resident of another state or country, but will be registering the vehicle for use in Ohio while stationed here, **Ohio sales or use tax is due**.

If the vehicle is purchased in Ohio by a member of the armed services who declares that he/she is not a resident of Ohio and that the vehicle will be immediately removed from Ohio for titling and registration in the other state or country, **Ohio sales or use tax is not due**. A non-resident affidavit must be provided by the purchaser. Use the ATPS exemption code "**NR: Nonresident Affidavit - Immediate Removal**."

If the vehicle is purchased outside of Ohio by a member of the armed services who is a resident of Ohio and the vehicle is to be driven in Ohio, **Ohio sales or use tax is due**.

If the vehicle is purchased outside of Ohio by a member of the armed services who is a resident of Ohio and the vehicle is to be driven outside Ohio, the Ohio Supreme Court has ruled that **no Ohio sales or use tax is due**. The Supreme Court did not indicate the amount of time that a vehicle had to be driven outside of Ohio to qualify so the Department has adopted the "six month" rule in that the period of time must be *more*

than six months (as evidenced by a copy of the individual's military orders indicating out-of-state service for a period of at least six months after the purchase date). Use the ATPS exemption code "CM: Conversion - Military."

If the vehicle is purchased outside of Ohio by a member of the armed services who is a resident of Ohio and the vehicle is or is to be driven outside of Ohio for *less than six months* (member of armed services being transferred to Ohio or is returning to Ohio upon separation from armed services), **sales and use tax is due**.

03) **When must we obtain an exemption certificate or obtain or issue Form T-610 OR Form T-615?**

Exemption certificates must be obtained on dealer title transfers and Forms T-610/T-615 must be obtained or issued on casual (non-dealer) title transfers *only when the purchaser is claiming one of the below listed exceptions/exemptions supported by an ATPS exemption code*. In reality, Forms T-610/T-615 became the exemption certificates on casual title transfers. **NOTE:** If taxes are being paid on a title transfer, exemption certificates or Form T-610/T-615 are not necessary.

CF	Commercial Fishing - Watercraft - Commercial Fishing License Required
CH	Church
CM	Conversion - Military (Purchased out-of-state for use out-of-state)
CS	Consolidation
DF	Direct Use - Farming
DM	Direct Use - Mining
DO	Direct Use - Oil & Gas
DR	Research and Development
DS	Dissolution to Stockholder with No Consideration
FD	Foreign Diplomat - Exemption Card Required
IP	Individual to Partnership with No Consideration
MO	Manufacturing Operation - i.e. Cement Mixer
MR	Corporate Merger with No Consideration
NP	Non-Profit, Charitable
NR	Non-Resident Affidavit
PD	Partnership, Dissolution with No Consideration
PT	Non-Licensed Production Transportation
PU	Direct Use in a Public Utility Service
RI	Resale - Implement/Equipment Dealer
RM	Re-manufacturing - Chassis or Part
RS	Redeemed - Return Sale
RV	Resale - Watercraft (VL Required)
RW	Resale - Wholesale Only
TH	Highway Transportation for Hire (PUCO or ICC Permit # Required)
UM	Undisturbed Mortgage
VF	Volunteer Fire Department - Contract Basis
WH	Warehousing - Not Licensed for Highway Use

**** ***SPECIAL NOTE*** ****

The Department of Taxation no longer needs a copy of the non-resident affidavit (**NR**) or exemption certificates or Forms T-610/T-615 for the following exemption codes (You must still obtain and retain a copy as part of your evidence file):

NC	Corporate Name Change
ND	Non-Resident Affidavit

RI	Resale - Implement/Equipment Dealer
RM	Re-manufacturing - Chassis or Part
RS	Redeemed - Return Sale
RV	Resale - Watercraft (VL Required)
RW	Resale - Wholesale Only
VF	Volunteer Fire Department - Contract Basis

04) Does the winner of a raffle, contest or lottery owe any Ohio sales or use tax?

Raffle or Contest Winner

The winner of a raffle or contest does not owe Ohio sales or use tax as he/she has not paid a “price” for the item received. The sponsor of the raffle or contest, however, may be subject to Ohio sales or use tax. We request that you provide the Department of Taxation with a copy of the MSO/title that has been assigned to the winner of the raffle or contest and a copy of the title that is issued in the name of the winner. The Department will then determine if Ohio tax is due from the sponsor or contributor. (\$0.00 price)

Ohio Lottery Winner

It is our understanding that the winner of a motor vehicle, all-purpose vehicle, off-highway motorcycle, watercraft or outboard motor (or any other item of tangible personal property) through one of the lottery games must take possession of the item won. The Ohio Lottery Commission will purchase the item in the name of the lottery winner and taxes will be paid on the purchase price. If the item is required to be titled, taxes will be paid to the Clerk of Courts by the dealer (Lottery Commissioner will pay the dealer the price of the vehicle and the tax as part of lottery prize payment) at the time the title is issued.

05) Do rebates reduce the “price” for calculating sales or use tax?

NO. A rebate is money that is or will be paid to the purchaser by the manufacturer after the sale is complete as an incentive to make the purchase. Typically, however, the purchaser assigns the rebate over to the dealer and it is used as all or part of the down payment. Therefore, the rebate amount that is part of the consideration received by the dealer and is part of the price paid upon which the tax is based.

06) Do dealer cash discounts reduce the price for calculating sales or use tax?

YES. Cash discounts allowed at the time of sale reduce the price for calculating sales or use tax. Discounts allowed after the sale do not reduce the price.

07) Does a trade-in reduce the price when calculating sales or use tax?

YES - When a motor vehicle is traded for a new motor vehicle, all-purpose vehicle or off-highway motorcycle.

NO - When a motor vehicle is traded for a used motor vehicle, all-purpose vehicle, or off-highway motorcycle.

NO - When a watercraft, outboard motor or personal watercraft is traded for a new or used motor vehicle, all-purpose vehicle, or off-highway motorcycle.

NO – When a vehicle is under a valid lease and the lessee is attempting to trade-in the vehicle that is titled in the name of the leasing company. Under the terms of most lease agreements, the leasing company (during the life of the lease) can only sell (transfer title for consideration) the leased vehicle to the lessee or to a dealer. If the leasing company sells the vehicle to a dealer, it is no longer available to be used as a trade-in by the lessee. NOTE: The answer would be YES if the lessee first purchased the leased vehicle (paying sales tax on the purchase price paid to the leasing company), had title issued in the lessee's name, and then used the vehicle as a trade-in on the purchase of a **new** motor vehicle.

YES - When a watercraft, outboard motor or personal watercraft is traded for a new/used watercraft, outboard motor, and/or personal watercraft **and** the seller (located in-state or out-of-state) **is**, at the time of sale, licensed as a watercraft dealer through the Ohio Department of Natural Resources, Watercraft Division.

NO - When a watercraft, outboard motor, or personal watercraft is traded for a new/used watercraft, outboard motor, or personal watercraft **and** the seller (located in-state or out-of-state) **is not**, at the time of sale, licensed as a watercraft dealer through the Ohio Department of Natural Resources, Watercraft Division.

NO - When a motor vehicle is traded for a watercraft, outboard motor or personal watercraft.

08) Are court ordered title transfers subject to the sales or use tax?

Generally, **NO** since the courts will order the transfer of title without consideration (divorce, dissolution, estate settlement, etc.). If, however, the court orders the transfer of title with consideration to be paid (including cancellation of debt) by the new title holder, the transfer would be subject to the sales or use tax based on the amount paid. If no consideration and a court order, use ATPS exemption codes "**CO**: Court Order Transfer with No Consideration" or "**DV**: Divorce – Court Ordered Transfer with No Consideration" or "**IH**: Inheritance with No Consideration, Includes Surviving Spouse."

09) Can the clergy of a church obtain a title in his/her name without paying sales or use tax?

NO. The exemption applies to the church, not the clergy. To be exempt, the vehicle would have to be titled in the name of the church.

10) How are leases taxed?

Effective February 1, 2002, Ohio changed the way sales tax was charged and collected on leases. The new method applies to many items, but this question will focus on motor vehicles, watercraft, and outboard motors. There is one exception to motor vehicles that are designed by the manufacturer to carry a load of more than one ton. Those vehicles will be taxed on the old method, on each monthly lease payment.

The new law provides the tax will now be collected upfront, on the amount to be paid by the lessee over the term of the lease. The tax is to be collected by the dealer, based on the

rate in the lessee's county of residence. The dealer remits the tax directly to the State of Ohio on a Transient Vendor License. The tax is not paid to the Clerk of Courts at the beginning of the lease. When the vehicle is titled in the name of the leasing company, no tax is paid as the leasing company has a exemption based on resale.

At the end of the lease, the customer may choose to purchase the vehicle. The leasing company will collect the tax on the agreed upon "buyout" price, again based on the rate in the lessee's county of residence. This tax IS paid to any office of the Ohio Clerk of Courts before title can be issued. See question number 13.

For more information on the taxing of leases, please visit our website at www.state.oh.us/tax

11) If a motor vehicle dealer accepts cash down payments, must the motor vehicle dealer charge sales tax when the vehicle is to be leased? If yes, how is the tax paid?

Cash down payments are subject to the sales tax.

Prior to February 1, 2002, if a down payment was collected by the leasing dealer, the leasing dealer would also collect the sales tax. The leasing dealer would then remit the tax to the State of Ohio, like any other sales tax payment.

If a down payment is paid to the motor vehicle dealer, the motor vehicle dealer will also collect the sales tax and either remit it directly to the State of Ohio on the dealer's transient sales tax return or forward it to the leasing dealer so that the leasing dealer can remit it to the State of Ohio.

NOTE: In either of these situations, tax is not remitted to the Clerks of Courts because the motor vehicle will be titled in the leasing company's name under the "resale - leasing" exemption.

As of February 1, 2002, the dealer collects the cash down payment as part of the price paid for the lease of the motor vehicle, watercraft or outboard motor. It is charged at the rate in the lessee's county of residence, and remitted to the State of Ohio on the dealer's transient vendor's license. For more information on leases, see question number 10.

12) Are out-of-state leasing dealers required to be registered for collection of sales or use tax?

YES. Out-of-state leasing dealers are required to be registered with the Department of Taxation but they may not be required to have a leasing dealer's permit (LD #) from the Bureau of Motor Vehicles. To title these vehicles in the leasing dealer's name, use the ATPS exemption code: **"RO: Resale Out-state Leasing."** ATPS will require a valid Ohio use tax account number (99-XXXXXX) before it will proceed with issuing a title without collecting use tax. NOTE: This could apply to watercraft and outboard motors.

If the out-of-state leasing dealer has a leasing dealer's permit issued by the Bureau of Motor Vehicles, you would use the exemption code **"RL: Resale Leasing"** and you would use the leasing dealer's permit number and the Ohio use tax account number (99-XXXXXX).

13) Does a leasing company charge sales tax on the "sale" of its leased vehicles? If so, how is the tax paid to the State of Ohio?

Under Ohio sales and use tax law, a motor vehicle leasing dealer is **required** to collect sales and use tax on the "sale" of any of its vehicles, unless the purchaser has a statutory basis for claiming exception or exemption. The leasing dealer is **required** to collect the gross amount of sales and use tax based on the rate in effect in the purchaser's county of residence. The leasing dealer would then remit the net amount (gross tax less allowable discount) of sales and use tax to any county Clerk of Courts, stating the purchaser's county of residence so the title can be issued.

In case of an audit by the Ohio Department of Taxation, the leasing dealer must be able to show that sales and use tax was charged and collected **and** that this tax was paid to the proper Clerk of Courts. Clerks of Courts issue receipts reflecting payment of taxes and associated title fees, which should be retained in the transaction file as evidence that the tax has been paid.

While a leasing dealer may not physically obtain the certificate of title for the purchaser (provide paperwork to purchaser and have purchaser obtain his/her own title), the dealer **must** ensure payment of the proper amount of tax to the Clerks and obtain/retain receipts reflecting the tax payment.

14) Can a third party purchase a leased vehicle without payment of sales and use tax twice?

Most motor vehicle lease agreements prohibit the sale of a leased vehicle from the leasing company to anyone other than the lessee or to a motor vehicle dealer during the lease term. The agreements are written this way to protect the lessee, in that the leasing company cannot sell their vehicle to just anyone during the life of the lease. However, there are times when the lessee wants out of the lease and finds someone (third party) who is willing to purchase the vehicle from the leasing company.

When the above situation occurs, the lessee and the third party should (highly recommended) enter into a written agreement (before the event occurs) that basically stipulates the following:

- 1) The lessee has determined the amount required to purchase the leased vehicle from the leasing company;
- 2) The third party agrees to provide the funds to purchase the vehicle from the leasing company and pay the sales and use taxes that will be due;
- 3) The lessee and the third party understand that the leasing company will obtain the title in the lessee's name, as required by the lease agreement, and that the sales and use tax payment will be in the name of the lessee; and
- 4) The lessee agrees to immediately assign the vehicle over to the third party for a price of \$0.00.

SPECIAL NOTE: If the third party has agreed to pay a higher "price" than the "price" required by the leasing company (difference going to the lessee), the difference between the "price" paid by the third party and the "price" paid to the leasing company should be reflected as the "price" in the assignment portion of the title between the lessee and the third party. The "price" does not include the amount of sales and use tax paid when the title transfers to the lessee.

The agreement needs to be duplicated and signed by each party. Each party needs to have a copy of the signed agreement to protect their interest and resolve any tax questions that may arise when the title transfers between the lessee and the third party.

This position taken here is similar to the Board of Tax Appeals decision in Sarah B. Yocum v. Lindley, BTA 80-A-501 (July 27, 1981) as it applied to the two title transfers involving the Ford A-Plan situation.

NOTE

If the lessee decides to purchase the vehicle during the life of the lease or at the end of the lease term and then find a buyer for the vehicle, the above procedure would not apply. We would consider these as two separate sales and sales/use tax is due on each title transfer.

15) Is an out-of-state leasing company required to be registered with the Ohio Department of Taxation as a seller (account number 99-?????) when all of its customers are residents of other states or countries?

No. In this particular situation, the out-of-state leasing company should complete the non-resident affidavit and the Clerk of Courts would issue an Ohio title using the non-resident exemption code. If the lessee should later move to Ohio or if the leasing company would begin offering leases to Ohio residents, the leasing company **MUST** register with the Ohio Department of Taxation.

16) Are farmers exempt from paying sales or use tax on vehicles that are licensed to operate on the highways?

Generally **NO**. Farmers are only exempt on equipment that is directly used in farming, such as tractors, planters, or combines that plow the fields, plant the crops, or harvest the crops. Motor vehicles (automobiles, trucks, etc.) registered for use on the highways and used to transport seed, fertilizers, chemicals, or finished products are taxable. APV's would only qualify for exemption if they are being used primarily (more than 50% of the time) directly in farming (similar to the way a tractor is used).

There is an exception to the general rule and that is a specifically designed vehicle that contains a tank, operated with a power take-off unit (PTO), which is used to spray liquid fertilizers, pesticides, herbicides, etc. on farm lands and crops. This vehicle is generally owned by someone who is hired by a farmer to provide a farming service and must operate on the highways since it must travel from farm to farm. If the tank/sprayer is not operated by a power take-off unit, the vehicle is subject

to the tax while the tank/sprayer unit is not. In this case, the dealer must provide a separation of the amounts between the vehicle and the tank/sprayer unit.

17) Who is entitled to claim exemption from sales tax based on the "Highway Transportation for Hire" (TH) exemption?

Those individuals who are being paid to transport personal property belonging to others over the highways are deemed to be engaged in highway transportation for hire. These individuals must be regulated by the Public Utilities Commission of Ohio (PUCO) or under Interstate Commerce Commission (ICC) rules and must provide the permit number

issued by PUCO (PUCO XXXXXX) or under ICC (ICC XXXXXX or MC XXXXXX) rules as part of their claim for exemption

Generally, the owner of the motor vehicle is the one who holds the PUCO or ICC/MC permit. However, the owner of the motor vehicle could be under contract with the PUCO/ICC/MC permit holder. When the owner of a motor vehicle being used in highway transportation for hire is not the permit holder, the owner must provide a copy of the contract, which authorizes the owner to operate the vehicle under the PUCO/ICC/MC permit number.

Any motor vehicle (tractor/trailer rig, pick-up truck, automobile, van, sport utility vehicle, and/or motorcycle) could qualify for the TH exemption if it is primarily used in highway transportation for hire. If the motor vehicle is use primarily as a parts vehicle or a vehicle used to transport drivers, it does not qualify for the exemption.

****** SPECIAL NOTES ******

The "highway transportation for hire" exemption does not apply to those who are in the business of transporting people. For example, it does not cover bus companies, taxicab companies, or limousine services.

Also, this exemption does not apply to all-purpose vehicles, off-highway motorcycles, watercraft and outboard motors since they cannot be used to transport items over the highway.

The USDOT number cannot be used to qualify for the "TH" exemption as these individuals are hauling their own inventory/personal property so they are not engaged in highway transportation for hire.

18) Who is entitled to pay tax to the Clerks of Courts net of the 3/4 of 1% (.0075) discount?

a) Prior to January 1, 1996, only those licensed with the Department of Taxation as a vendor selling watercraft and/or outboard motors. The vendor must provide a valid vendor's license number (01-XXXXXX through 89-XXXXXX or 99-XXXXXX) when they are obtaining the title for the purchaser.

Please note that the vendor does not have to be licensed as a watercraft dealer with the Department of Natural Resources, Watercraft Division to be entitled to the tax discount.

b) On or after January 1, 1996, those licensed with the Department of Taxation as a vendor selling motor vehicles, watercraft, and/or outboard motors. The vendor must provide a valid vendor's license number (01-XXXXXX through 89-XXXXXX or 99-XXXXXX) when they are obtaining the title for the purchaser.

19) Is the luxury tax part of the tax base for calculating sales tax?

YES, when the dealer passes the tax on to the consumer as part of the amount charged for the vehicle.

The luxury tax is a federal excise tax levied on a motor vehicle dealer who is in the business of selling passenger vehicles with a selling price in excess of a certain dollar amount (currently \$40,000.00 for the year 2002). The luxury tax is currently 3% of the amount of the selling price that is in excess of the dollar amount established by the Federal Government (See IRS Publication 510). **Dealers should be advised to contact the Internal Revenue Service (1-800-829-1040) to obtain the latest threshold amount**

and tax rate and if they have any questions concerning the collection and remittance of the luxury tax itself. The luxury tax is set to expire after December 31, 2002.

The dealer may pass all or part of the tax on to the purchaser of the motor vehicle or the dealer may choose not to pass the tax on to the purchaser. Since the tax is part of the dealer's cost of doing business, any part of the luxury tax that is passed on to the purchaser is part of the "price" for calculating sales tax.

20) Is the amount charged for the Federal Retail Excise Tax (FRET) included in the tax base for calculating sales tax?

NO. This is a 12% federal excise tax, which is required to be collected by a motor vehicle dealer when the dealer sells a heavy truck. Since it is a direct tax on the purchaser, it is not part of the tax base for collecting sales tax.

21) Can a motor vehicle dealer obtain title to a watercraft under a "resale" exemption?

YES. A motor vehicle dealer may claim "resale – watercraft" (RV) when the dealer acquires a watercraft, if it is acquired for purposes of resale. The dealer need only provide a valid vendor's license for the dealership's location (do not use the motor vehicle dealer's permit number to support exemption).

22) What is included in the "price" of a motor vehicle when calculating the sales and use tax?

"Consideration" or "Price" means the aggregate value in money of anything paid or promised to be paid or delivered in exchange for the transfer of either title to or possession of a motor vehicle, all-purpose vehicle, off-highway motorcycle, watercraft, outboard motor, or personal watercraft. No deduction may be made from the "consideration" or "price" upon which the tax is based by reason of any trade-in allowance (except for the sale of a new motor vehicle, all-purpose vehicle, or off-highway motorcycle by a new motor vehicle dealer upon which a motor vehicle, all-purpose vehicle, or off-highway motorcycle is given in trade; OR the sale of a new or used watercraft, outboard motor, or personal watercraft by a licensed watercraft dealer upon which a watercraft, outboard motor, or personal watercraft is given in trade) or a manufacturer's rebate. The sales or use tax is computed upon the total amount of consideration, whether in cash, by exchange (trade), or by any means whatsoever.

The tax base should include the amount charged for the following:

- a. Base price of vehicle, watercraft or outboard motor
- b. Accessories (floor mats, mud flaps, air conditioning, cruise control, radio, CD player, etc.)
- c. Freight or transportation charges from the manufacturer to the dealer
- d. National advertising which may be charged on a unit basis
- e. Service and handling prior to delivery (preparation charge)
- f. Documentary fees (does not include separately stated title and registration fees or fees associated with the documentation of a watercraft with the US Coast Guard)
- g. Undercoating
- h. Federal luxury tax, if the dealer charges the customer for all or part of the luxury tax.
- i. Extended warranty, service or maintenance contracts sold at the same time as the item covered by the extended warranty, service or maintenance agreement. (NOTE: Sales

of extended warranties, service or maintenance agreements that are sold some time after an item is sold are subject to sales tax but tax will be paid directly to Ohio, not through the Clerks of Courts.)

****** SPECIAL NOTES ******

Manufacturer's rebates and cash down payments do not reduce the "price" for calculating sales or use tax. "Price" can be reduced by any cash discount given at the time of sale.

The 12% federal retail excise tax (FRET) levied by the federal government on the purchaser of a heavy truck is not to be included in the "price" since it is a direct federal tax on the consumer.

23) Is the consumer entitled to a tax credit for taxes paid to another state?

Basically, **YES**. When it is determined that Ohio use tax is due on the purchase of a motor vehicle from an out-of-state seller, a credit allowance shall be given for the amount of sales and/or use tax legally required to be paid to another state or jurisdiction. The amount of the credit allowance must be established by evidence to the satisfaction of the Clerk of Courts. When the amount of tax paid to another state or jurisdiction has been established, it shall be deducted from the total amount of use tax due Ohio. If the credit exceeds or equals the Ohio use tax due, no additional tax payment shall be required.

For vehicles that are leased, assume a motor vehicle was leased outside Ohio after February 1, 2002, then subsequently moved into Ohio. The balance of the lease charges due after the leased vehicle is brought into Ohio will be subject to Ohio's up front sales tax. If the other state taxes leases "up front", credit will be given for the other state's sales tax. If the other state's tax equals or exceeds the appropriate Ohio tax, no additional tax will be due. If the other state taxes leases on the monthly payments, no credit will be allowed for the tax paid to the other state for the months prior to the vehicle entering Ohio. Tax will be due "up front" on the total of the balance of the remaining lease payments.

****** NOTE ******

Credit cannot be given for sales, use or similar taxes paid to another country, such as Canada, Mexico, Germany, etc.

24) Can a pawnbroker obtain title to a motor vehicle under a resale exemption?

YES. Pawnbrokers taking title to a vehicle pursuant to Section 4505.102 of the Ohio Revised Code to protect a loan may use the term "Resale – Financial Institution" (RF)

25) Can the providers of taxicab and limousine services claim exception from the sales or use tax on the purchase of their motor vehicles?

TAXICAB SERVICES

YES. Taxicab companies are licensed by a local government entity (county, township, or municipality) to provide pick-up and delivery of individuals. These companies must

service when demanded and a complaint is filed with the regulating entity, they could lose their authority to operate. Also, as part of the general local government regulations, these companies are only allowed to pick-up

individuals within a specified geographical area and their service fees are negotiated and set by the regulating entity.

LIMOUSINE SERVICES

NO. While limousines services may be somewhat regulated by a local government entity (county, township or municipality) to provide safe and reliable pick-up and delivery service of individuals, they are not regulated to the same extent as are taxicab companies. There is no requirement that they must provide their services as demanded by the general public. Also, they are free to pick-up individuals almost anywhere and they can charge any service fee that the public is willing to pay. Therefore, they are not considered to be rendering a public utility service and are not entitled to claim the sales/use tax exception.

26) Are there sales & use taxes due on a self-assemble vehicle?

NO.

When an application for title to a self-assembled vehicle is made, the owner must provide copies of invoices for all of the parts. If tax were charged on all of the parts, NO tax would be due. The Clerk could issue a title by using the self-assembled exemption code (SA).

YES.

If tax was not paid on all or some of the parts, the Clerk would allow the system to calculate the taxes due (the "price" of the vehicle being the total amount paid for all of the various parts), then give the owner credit for the taxes paid on the various parts which would off-set part of taxes calculated to be due. The balance due would then be collected as the title is issued.

27) Does a dealer title a "parts truck" and pay tax when the title is issued?

When a dealer removes a vehicle from inventory (or purchases a vehicle from another dealer) and utilizes the vehicle as a "parts" vehicle, the dealer should title the vehicle in the dealer's name and remit sales and use tax on the dealer's acquisition cost. If the dealer purchased the vehicle, the "price" upon which sales tax is calculated is the purchase price. If the dealer acquired the vehicle through trade, the "price" upon which tax is calculated is the value of the trade-in allowance granted when the vehicle was acquired.

28) Can an Ohio title be issued on a watercraft, outboard motor, or personal watercraft purchased in Ohio for use in Ohio by a resident of another state?

YES, per the Ohio Department of Natural Resources, Watercraft Division.

When a resident of another state purchases a watercraft, outboard motor, or personal watercraft in Ohio for use in Ohio (has a vacation or weekend home on an Ohio body of water where the watercraft, outboard motor, or personal watercraft is used and kept), an

Ohio title must be issued. The title can be issued at any office of the Ohio Clerk of Courts, but the tax rate and county of residence will be the county where the watercraft, outboard motor, or personal watercraft will be used the most or kept.

NOTE: If the watercraft, outboard motor or personal watercraft was first purchased outside of Ohio, credit would be given for any sales or use taxes paid to another state (not country) up to but not exceeding the amount due Ohio. If the Ohio tax liability is greater than the amount paid to the other state, the balance would be due Ohio when the Ohio title is issued.

29) Is an ambulance service entitled to claim exemption from sales and use tax under the “used directly in the rendition of a public utility service” exception?

The Department of Taxation has reviewed an assessment appeal and determined that under certain circumstances an ambulance service is entitled to claim exemption from sales and use tax under the “used directly in the rendition of a public utility service” exception.

Specifically, an ambulance service is eligible for the exception if:

- 1) The service is provided without discrimination,
- 2) The territory that the service provider services is restricted and it services that territory exclusively,
- 3) The service is highly regulated at both the state and local level, and
- 4) The service of providing emergency medical care and transportation of the sick and injured is a service of public consequence or need.

For this exception, the purchaser **must** provide two copies of a motor vehicle exemption certificate indicating that the vehicle is “used directly in the rendition of a public utility service.” The Clerk will retain one copy and forward one copy to the Department of Taxation’s district office for review. The Clerk would issue the title using the ATPS exemption code: “**PU**: Direct use in a Public Utility Service”.

30) Can a manufacturer obtain title to a motor vehicle without paying sales tax when the vehicle was purchased back by the manufacturer pursuant to the lemon law?

YES. When a manufacturer is required to buy-back a motor vehicle, all-purpose vehicle, or off-highway motorcycle from the consumer pursuant to the lemon law, they can obtain title without paying sales or use tax. The Clerk of Courts must obtain sufficient evidence that the buy-back provision of the lemon law is being enforced. The Clerk would use the ATPS sales and use tax exemption code “**MB**: Manufacturer Buy-Back – Lemon Law”.

31) If the manufacturer repurchases my motor vehicle, watercraft or outboard motor pursuant to the lemon law, and replaces it with another vehicle, do I have to pay tax when applying for title on the second vehicle?

Yes. According to the Lemon law, the manufacturer is required to refund to the purchaser the entire purchase price plus the sales tax. That refund is used to *purchase* the second motor vehicle, watercraft or outboard motor. Therefore, sales tax must be paid to the clerk of courts when obtaining title for the replacement item.

If the manufacturer has refunded the entire purchase price and sales tax, it is eligible to apply for a refund of the sales tax on the first purchase.

32) How do I obtain a refund if tax has been paid in error?

You must submit an application for sales/use tax refund (Form ST-AR) and the supporting schedule (ST 185-B) when necessary. You should also submit copies of any documents you feel that are necessary in support of your applications for refund (e.g., receipts issued by the Clerk of Courts,

titles issued by the Clerk of Courts, retail buyers agreements or invoices - see Form ST 185-B for more details).

33) What is a “new” motor vehicle as it pertains to the trade-in allowance?

If you have any questions as to whether a motor vehicle is considered new or used, you should address the question to the Bureau of Motor Vehicles (BMV), Title Division. The sales and use tax law does not provide a definition of new or used motor vehicle so we have to defer to the BMV’s definition and determination. If BMV establishes the fact that a “new” vehicle is being sold, a trade-in allowance can be used to reduce the tax base. If BMV determines that a “used” vehicle is being sold, a trade-in allowance cannot be used to reduce the tax base.

34) How is a utility trailer taxed and where is the tax paid?

Utility trailers that weight 4,000 pounds or more should be titled as a motor vehicle and taxed as any other motor vehicle.

Utility trailers that weight less than 4,000 pounds are not titled as motor vehicles. While they are still subject to sales or use tax, the tax should be collected by the Ohio vendor or registered out-of-state seller and remitted directly to the State of Ohio. If the seller is not a vendor in Ohio and is not registered as an out-of-state seller, the consumer still owes Ohio use tax. This use tax can be remitted as a voluntary payment using our VP-USE form found on our website at www.state.oh.us/tax/ OR the use tax can be paid as part of the state income tax return.

35) Can a dealer donate an item (motor vehicle, watercraft and/or outboard motor) to a non-profit, charitable organization and avoid payment of tax?

When a dealer acquires an item without payment of tax under the "resale" exception and later transfers ownership for no consideration (donation), the dealer owes Ohio use tax on the dealer's cost of acquisition. Since the dealer did not sell the donated item, the dealer has defeated the "resale" exception. This tax should be paid under a consumer's use tax return or through the voluntary payment procedures.

36) How is tax paid on golf carts?

Generally, golf carts are not used on public highways and are not titled as motor vehicles. Therefore, the purchaser would remit sales and use tax to the seller, unless the purchaser has a statutory basis for claiming exception or exemption.

However, there are six jurisdictions that currently require golf carts to be titled and plated, if they are to be used on public highways. The jurisdictions are Kelleys Island and Put-In-Bay on Lake Erie, Chippawa-on-the-Lake in Medina County, Yellow Springs in Greene County, Millersport in Fairfield County and Lakeview in Logan County. Golf carts that are sold to residents for use on public highways in one of these areas must be titled and any tax that is due must be paid to the county Clerk of Courts.

A chief of police or county sheriff may designate an area under their jurisdiction as being an area that would allow the use of golf carts on public highways. If so, the chief of police or county sheriff would send notification to the Bureau of Motor Vehicles and BMV would then do a letter of authority to the Clerk of Courts who has jurisdiction over the affected area.

37) Can a person trade in more than one motor vehicle on the purchase of a new motor vehicle and deduct the trade-in value of both vehicles?

YES. The combined value of the two or more vehicles given in trade can be used to reduce the "price" of the new motor vehicle being sold by the new motor vehicle dealer. If the value of the traded in vehicles is less than the "price" of the new vehicle, tax is due on the difference. If the value of the traded in vehicles equals or exceeds the "price" of the new vehicle, no tax is due as the "price" would be reduced to zero (NOTE: The "price" for calculating sales tax on the new vehicle cannot be less than zero.)

38) Are handicap accessories added to a motor vehicle subject to the sales or use tax?

Ohio law provides a sales tax exemption for sales of wheelchairs; items incorporated into or used in conjunction with a motor vehicle for the purpose of transporting wheelchairs; and items incorporated into or used in conjunction with a motor vehicle that are specifically designed to assist a person with a disability to access or operate the motor vehicle. A "person with a disability" means any person who has lost the use of one or both legs or one or both arms, who is blind, deaf, or disabled to the extent that the person is unable to move about without the aid of crutches or a wheelchair, or whose mobility is restricted by a permanent cardiovascular, pulmonary, or other disabling condition. The price for these exempt items MUST be separately stated from the price of the motor vehicle and other options that are added to the vehicles. If there is no separation of price, the entire price of the motor vehicle is subject to tax.

If a handicap modified motor vehicle is being sold by a used vehicle dealer or as a casual sales (non-dealer sale), part of the price of the vehicle can be exempt from tax if the amount attributed to the handicap modification is separately stated on the retail buyer's agreement or bill of sale.

39) Are auto auctioneers required to collect and remit sales tax?

Most auto auctioneers are only allowed to sell motor vehicles to other licensed motor vehicle dealers. Therefore, all sales should be for "resale" and exempt from Ohio sales and use tax.

However, individuals are allowed to attend and purchase at auctions of repossessed vehicles. At the time of auction, the vehicles are titled in the name of the financial institutions. Titles are assigned to the winning bidder. The bidder is required to obtain title at any Ohio Clerk of Courts office. Tax is paid at the time of titling at the rate of the bidder's county of residence. Tax is computed on the amount of the winning bid, and any fees or commissions added by the auction.

40) What happens when a non-resident purchaser returns to Ohio?

When a non-resident purchases a motor vehicle from an Ohio dealer, the Ohio dealer is required to obtain an Ohio title in the name of the purchaser. The purchaser is entitled to claim exemption from Ohio sales and use tax by executing the non-resident affidavit. Pursuant to Ohio law, the purchaser must immediately remove the vehicle from Ohio and title/register the vehicle in the purchaser's resident state or country.

If the purchaser has complied with these requirements and later returns to Ohio (more than six months after date of purchase) to become an Ohio resident, the non-Ohio title should be converted to an Ohio title under the ATPS exemption code of CV or CM.

If the purchaser has complied with these requirements and later returns to Ohio (less than six months after date of purchase) to become an Ohio resident, the non-Ohio title should be converted to an Ohio title but Ohio tax would be due. The purchaser should be given credit for any sales or use or similar tax paid to another state. (NOTE: The purchaser cannot be given credit for sales or use or similar tax paid to another country.)

If the purchaser never removes the vehicle from Ohio or never title/registers the vehicle in another state or country, Ohio tax would be due.

41) Can a used motor vehicle dealer purchase a new motor vehicle under the "resale" exception?

Under Ohio tax laws, any person making retail sales may acquire items (including motor vehicles) excepted from sales or use tax based on the "resale" exception. The problem is obtaining an Ohio title, as motor vehicle law does not allow a used motor vehicle dealer to acquire a new motor vehicle for purposes of resale.

If a used motor vehicle dealer purchases a new motor vehicle, pays Ohio sales and use tax when the Ohio title is obtained, and subsequently sells the vehicle with few if any miles added to the odometer, we would entertain an application for refund of the taxes paid by the dealer.

If the used motor vehicle dealer obtained the new motor vehicle by trading in a used vehicle, the taxes paid by that used motor vehicle dealer would be based on the price of the new vehicle, reduced by the used vehicle trade-in allowance.

42) How are taxes calculated on a brokered watercraft sale?

The sale of watercraft, outboard motors and parts thereof made by boat dealers and/or brokers are deemed to be sales subject to the sales or use tax regardless of who holds title

Tax Commissioner Rule 5703-9-40, dated February 24, 1965, reads as follows:

"Persons engaged in the business of selling tangible personal property who are authorized, engaged or employed to sell tangible personal property belonging to another are the vendors of such tangible personal property and shall be responsible for the proper collection and remittance of the sales tax with respect to such sales.

Persons engaged in the business of selling tangible personal property shall include persons who hold themselves out to the public as conducting a business regardless of whether the merchandise sold is owned by them or by other persons who have authorized, engaged or employed them to sell tangible personal property."

Therefore, persons who represent themselves as dealers and/or brokers and make sales of tangible personal property on their own behalf or on behalf of others must collect the tax on all such sales unless otherwise exempted. Such dealers and/or brokers are required to have a vendor's license or out-of-state seller's use tax registration with the State of Ohio for the collection and remittance of tax. Tax must be paid by the dealer/broker as follows:

- 1) On titled watercraft and/or outboard motors, the dealer/broker will remit the proper amount of tax [net of discount when the dealer/broker has a vendor's license or an out-of-state seller's registration (99-?????)] to the Clerk of Courts at the rate for the purchaser's county of residence.
- 2) On watercraft that are not required to be titled, documented watercraft or accessories and parts, the dealer/broker will remit the proper amount of tax to the Department of Taxation on the dealer/broker's tax return. This remittance will be net of discount if the return is timely filed and the amount of tax that is due is paid in full.

SPECIAL NOTE

If the dealer/broker is licensed with the Ohio Department of Natural Resources as a watercraft dealer, the "price" for calculating sales tax may be reduced by any watercraft or outboard motor taken in trade by the dealer/broker.

Failure to comply with all statutory reporting and payment requirements will subject the dealer or broker to an assessment for the unreported or unpaid sales or use tax.

43) Can you provide more examples of situations where there is no tax due on the transfer of title of a motor vehicle, all-purpose vehicle, off-highway motorcycle, titled watercraft, titled outboard motor, or titled personal watercraft?

Here are some examples:

A) Sales to an organization that has been granted and maintains 501(c)(3) status by the Internal Revenue Service or is a not-for-profit organization operated exclusively for charitable purposes in this state. (NP)

NOTE: A motor vehicle used in the general operation of a business by these organizations would be taxable.

B) Sale in Interstate Commerce with delivery being made by the seller to a point outside this State for use outside this State. A special affidavit is prescribed in Rule 5703-9-10. **(NR)**

C) Sale to a purchaser who is to use the motor vehicle as follows:

a. As transportation equipment, except those licensed to operate on the public highways, to transport items in the process of production for sale by manufacturing, processing, assembling or refining within a plant. **(PT)** (See Rule 5703-9-21, OAC)

b. Directly in production of tangible personal property for sale by mining. Used prior to the tippie or crusher, or in the construction, operation and maintenance of private power lines to distribute electric energy for use in mining, whether licensed or not for highway use. (Rule 5703-9-22, OAC) **(DM)**

c. Directly in the exploration for or production of crude oil or natural gas. **(DO)**

d. Sale to a non-resident of this state upon presentation of an affidavit (See Rule 5703-9-10, OAC) executed in this State by the non-resident purchaser affirming that:

1) the purchaser is not a resident of this State,

2) that possession of the vehicle is taken in this State for the sole purpose of immediately removing it from the State, and

3) that the vehicle will be permanently titled and registered in another state and that it will not be used in the State of Ohio. **(NR)**

NOTE: The sale of a motor vehicle consummated in Ohio to a non-resident member of the Armed Forces stationed in Ohio is subject to Ohio sales or use tax. This type of transaction does not qualify under the non-resident exemption because the vehicle will be used in Ohio.

Another exception to the non-resident exemption would be the sale of a motor vehicle consummated in Ohio to a non-resident student attending school in Ohio. In this case,

the vehicle would not be immediately removed from the State as required by law and it will be used in Ohio.

e. A motor vehicle which will be used as a "yard truck" to transport purchased inventory in a warehouse, distribution center, or similar facility when the inventory is primarily distributed outside this state to retail stores of the person who owns or controls the warehouse, distribution center, or similar facility. This exemption does not apply if the vehicle is licensed to operate on the public highways. **(WH)**

f. Farm implement or construction equipment dealers will occasionally acquire a horse, utility or equipment "trailer" with a gross weight in excess of four thousand pounds, which requires a motor vehicle certificate of title

If the implement or construction equipment dealer is in the business of regularly selling trailers that are required to be titled, they will be licensed as a motor vehicle dealer by the Bureau of Motor Vehicles. Those that only occasionally sell trailers that are required to be titled will not be licensed as a motor vehicle dealer by the Bureau of Motor Vehicles. Nevertheless, the implement or equipment dealer must have a vendor's license as they are making retail sales. Under sales and use tax law, these implement or equipment dealers are entitled to claim the resale exemption on these trailers, so long as they are being acquired for the purposes of resale. These implement or equipment dealers **MUST** submit an exemption certificate with the application for certificate of title using the term "Resale - Implement/ Equipment Dealer." **(RI)**

SPECIAL NOTE: This exemption reason does not apply to trailers that are acquired for use by the business in transporting other items (tractors, plows, disc harrows, fertilizer spreaders, combines, bulldozers, backhoes, etc.) that are sold by the dealer or other motor vehicles (passenger vehicles, trucks, vans, etc.).

D) Where the purchaser of the motor vehicle is:

- a. The State of Ohio or any political subdivision thereof. **(SP)**
- b. The Federal Government or any agency thereof. **(FA)**
- c. A motor vehicle dealer (new, used, leasing, salvage, or out-of-state) obtaining title for "resale." The Clerk of Courts will record on the title the unrevoked dealer's permit number and/or vendor's license number. **(RD, RL, RN, RO, SR, or SW)**
- d. A motor vehicle rental company having a valid vendor's license (For Resale-Rental). **(RR)**
- e. A direct pay permit holder, in which case the direct pay number (98-XXXXXX) will be recorded on the title. **(DP)**

E) Where evidence (court documents, Highway Patrol inspection report, etc.) obtained and retained by the Clerk of Courts is such that tax is not due as a result of:

- a) Transfer of title pursuant to a divorce decree. **(DV)**
- b) Transfer of title to a beneficiary through inheritance in the administration of an estate by Probate Court where there is no clear consideration. **(IH)**
- c) Where a finance company or lending institution takes constructive possession of a mortgagor's car to protect its loan and thereafter the same mortgagor makes definite arrangements with the company to regain the car, it shall be titled back to the original mortgagor as "Redeemed." **(RP)**
- d) The issuance of title to an unclaimed motor vehicle when the proper affidavit has been executed. **(UC)**
- e) The transfer of a pre-ATPS (gold) title to an ATPS title without a change of ownership. **(HE)**

f) A resident of another state has purchased (not including rentals or leases) in their home state a motor vehicle for use in that state; but then moves to Ohio. If the individual takes up residence in Ohio at least six months after purchase of the vehicle; they may obtain an Ohio title without having to pay use tax. They must prove to the satisfaction of the Clerk of Courts that the vehicle was purchased outside Ohio and used outside this State for at least six months. **(CV)**

g) Insurance company taking title as result of a claim settlement may use the term "Resale-Insurance Claim." **(IC)**

h) All-purpose vehicle (APV) **purchased prior to July 1, 1999**; Clerk of Courts must have confirmation of the purchase date. **(AP)**

i) Off-highway motorcycle (OHM) **purchased prior to July 1, 1999**; Clerk of Courts must have confirmation of the purchase date. **(OH)**

j) New or used manufactured home or mobile home purchased **on or after January 1, 2000**. **(MH)**

k) Personal watercraft sold **before January 1, 2000**. **(WP)**

l) Transfer of a motor vehicle into the name of a franchised motor vehicle dealer for purposes of demonstration to prospective purchasers. When issuing title, the word "Demonstrator" is to be placed on the title. **(RD)**

m) Sales of emergency and fire protection vehicles to volunteer fire departments that are under contract with a political subdivision of this state (county, township, or municipality) to provide fire protection and emergency services. **(VF)**

n) A foreign diplomat may purchase a motor vehicle exempt from Ohio sales or use tax if the diplomat is the holder of an exemption card issued by the U.S. Department of State that grants exemption for all state taxes on the purchase of motor vehicles and other items of tangible personal property. The exemption card indicates the extent of the exemption granted. **(FD)**

o) The transfer of title to a motor vehicle that was purchased outside of Ohio for use outside of Ohio by a member of the Armed Services. The titleholder must be able to establish the fact that the vehicle has been or will be used outside of Ohio for at least six months after it is acquired. **(CM)**

p) The purchaser of a motor vehicle is using the vehicle (through a power take-off unit) in the production of a product for sale by manufacturing, processing, or refining (i.e. cement mixer where the mixing unit is operated through a power take-off unit instead of a separate power source). **(MO)**

q) The purchaser of a motor vehicle is purchasing a specially designed and equipped motor vehicle for use in rendering a public utility service. **(PU)**

NOTE: The **PU** exemption will cover ambulance services if the following conditions exist: 1) the service is provided without discrimination, 2) the territory that the service provider services is restricted and it services that territory exclusively, 3) its service is highly regulated at both the state and local level, and 4) its service of providing emergency medical care and transportation of the sick and injured is a service of public consequence or need. The purchaser must provide a

motor vehicle exemption certificate indicating that the vehicle is “used directly in the rendition of a public utility service.”

- r) The transfer of title to the beneficiary or beneficiaries stated on a title that is in the name of a sole owner with Transfer-on-death designation. **(TD)**

F) Where there is no “good and valuable consideration” given in exchange for the transfer of title to the motor vehicle, watercraft or outboard motor:

- a. The transfer of an asset of a corporation to the surviving corporation as a result of a merger or to a new corporation as a result of a consolidation. **(MR or CS)**
- b. The transfer of title from a corporation to one of its stockholders upon dissolution of the corporation. **(DS)**
- c. The transfer of title due to a corporate name change only. **(NC)**
- d. Transfer of title from an individual to a partnership of which the individual is a member if no clear consideration is given by the partnership for the transfer. **(IP)**
- e. Transfer of title from a partnership to a partner (individual) upon dissolution of the partnership. **(PD)**
- f. Transfer of title from an employee to an employer for the sole purpose of insuring the vehicle as a part of the employer's insurance. **(PRICE OF \$0.00)**
- g. Transfer of title from an employer to an employee for the sole purpose of insurance. **(PRICE OF \$0.00)**
- h. Where a trade-in is titled by a dealer for resale pursuant to the sale of another vehicle and that sale is not consummated, the trade-in title may be transferred back to the original titleholder as "Redeemed." **(RS)**
- i. The transfer of title where an uncanceled mortgage is involved and the transferor is not relieved of his original principal liability and there have been no changes in the original mortgage paper filed or any other consideration given. Also, title transfers from two names to only one of the original names and the mortgage remains in both names or the title transfers from two names to only one of the original names and the mortgage also changes from two names to only one of the original names.) **(UM)**
- j. The transfer of title between parents and their children, husband and wife, or between two unrelated parties in the absence of any clear consideration. **(PRICE OF \$0.00)**
- k. The transfer of an unencumbered title from a sole owner, partnership or corporation to a limited liability partnership (LLP) or limited liability company (LLC), and there is no clear consideration. Or, the transfer of title and there is an outstanding loan or lien on the title, and there is no change to the loan agreement as a result of the transfer (uncanceled mortgage). **(PRICE OF \$0.00)**

G) Where title to a vehicle is to be transferred to an individual who is not a motor vehicle dealer but the vehicle is to be resold. Indicated is the wording, which may be used on the title to claim exemption.

a) A Finance company or bank is repossessing a vehicle to protect the loan may use the term "Resale – Repossession" **(RE)** through June 8, 2000 **or** "Resale – Financial Institution." **(RF)** effective June 9, 2000.

b) Pawnbroker taking title to a vehicle pursuant to Section 4505.102 of the Ohio Revised Code to protect a loan may use the term "Resale – Repossession" **(RE)** through June 8, 2000 **or** "Resale – Financial Institution." **(RF)** effective June 9, 2000.

c) Insurance company taking title as result of a claim settlement may use the term "Resale - Insurance Claim." **(IC)**

d) Any licensed dealer taking a salvage title to a vehicle that is to be dismantled and sold as parts, or to sell the salvage vehicle on a salvage title to a new or used dealer or an individual may use the term "Salvage - Resale." **(SR)**

e) Manufacturer taking title to a chassis which will become part of a manufactured item that will be titled as a motor vehicle when sold to the ultimate consumer must accompany the application for title with an exemption certificate setting forth the statutory reason for exemption of "use or consumption as a material or part for incorporation into personal property to be produced for sale by manufacturing, assembling or processing." **(RM)**

f) Financial institution taking title to a motor vehicle for the sole purpose of selling the motor vehicle to a licensed motor vehicle dealer may use the term "Resale - Wholesale." **(RW)**

g) Farm implement or construction equipment dealers will occasionally acquire a horse, utility or equipment "trailer" with a gross weight in excess of four thousand pounds, which requires a motor vehicle certificate of title. If the implement or construction equipment dealer is in the business of regularly selling trailers that are required to be titled, they will be licensed as a motor vehicle dealer by the Bureau of Motor Vehicles. Those that only occasionally sell trailers that are required to be titled will not be licensed as a motor vehicle dealer by the Bureau of Motor Vehicles. Nevertheless, the implement or equipment dealer must have a vendor's license as they are making retail sales. Under sales and use tax law, these implement or equipment dealers are entitled to claim the resale exemption on these trailers, so long as they are being acquired for the purposes of resale. These implement or equipment dealers **MUST** submit an exemption certificate with the application for certificate of title using the term "Resale - Implement/Equipment Dealer." **(RI)**

SPECIAL NOTE: This exemption reason does not apply to trailers that are acquired for use by the business in transporting other items (tractors, plows, disc harrows, fertilizer spreaders, combines, bulldozers, backhoes, etc.) that are sold by the dealer or other motor vehicles (passenger vehicles, trucks, vans, etc.).

44) Can you provide some examples of “consideration” other than money that is given in exchange for a certificate of title?

The following list is not an all-inclusive listing:

A) An item of tangible personal property; such as another vehicle, a boat, a horse, etc. given in exchange. In each case, a value has to be established for the item being exchanged and it should be the fair market value of the item that is traded. Where there is an even trade of motor vehicles between two individuals with no money involved, each individual would pay tax due based on the value of the motor vehicle, which is transferred to the other.

B) A piece of real estate, such as a lot, that is given in exchange. In this instance, a value has to be established for the real property, which was given towards the acquisition of the motor vehicle.

C) An item of tangible personal property, such as shares of corporate stock, whether transferred to or from a corporation in exchange for a motor vehicle. An example would be the transfer of a motor vehicle from an individual to a corporation of which the individual is sole owner or a stockholder constitutes a sale and the fair market value of the stock or other consideration given in exchange would be the tax base. Where there is no established market value for the stock or other securities so exchanged, it will be presumed that they are equivalent to the fair market value of the vehicle or the value as listed under corporate assets in which case this would be used as the tax base.

D) Cancellation of an existing debt owed to the purchaser or new title holder.

E) The transfer of a motor vehicle resulting from the assumption, by the transferee (new title holder), of a mortgage through a "transfer of equity or interest agreement" wherein the transferor (previous title holder) is relieved of its original principal liability and becomes a guarantor is a transfer for a consideration and subject to the tax. The tax base would be the total amount of the mortgage assumed plus any other consideration given.

F) The transfer of a motor vehicle as the result of the transferee (new titleholder) paying off the mortgage in the name of the transferor (previous titleholder) is a transfer for a consideration. The tax base would be the amount of the pay off plus any other consideration given either in trade or money.



Certificate of Exemption Regarding Sale of a Motor Vehicle, Off-Highway Motorcycle, or All-Purpose Vehicle

The undersigned hereby claims exception or exemption on the purchase of the following described motor vehicle, off-highway motorcycle, or all-purpose vehicle purchased from:

Name of Vendor/Seller

Vendor's License Number, if any

Address of Vendor—street, city, state, zip code

Motor Vehicle, Off-Highway Motorcycle, or All-Purpose Vehicle:

Year _____ Make _____ Model _____ BodyType _____

Vehicle Identification Number (VIN): _____

Purchase Price: \$ _____

And further certifies that this claim is based upon the purchaser's proposed use of the motor vehicle, off-highway motorcycle, or all-purpose vehicle purchased, the activity of the purchaser, or both, as shown hereon:

(Purchaser must state prescribed reason for claiming exception or exemption.)

Purchaser's Name

Purchaser's Activity, i.e., manufacturer, public utility, church, etc.

Purchaser's Address—number and street

City, state, zip code

By—signature and title

Date signed Vendor's license, if any



**Statement Regarding Sale of a Motor Vehicle,
Off-Highway Motorcycle or All-Purpose Vehicle
in Interstate Commerce**

The undersigned hereby certifies that on _____ the following described motor
(date)
vehicle, off-highway motorcycle, or all-purpose vehicle was sold to:

(name)

(street)

(city)

(state)

(zip code)

Motor Vehicle, Off-Highway Motorcycle or All-Purpose Vehicle:

Year _____ Make _____ Model _____ Body Type _____

Vehicle Identification Number (VIN): _____

Purchase Price: \$_____

And further certifies that said motor vehicle, off-highway motorcycle or all-purpose vehicle will be delivered to the purchaser outside the territorial limits of the state of Ohio at _____ pursuant to the terms
(state)
of the agreement pertaining to this sale. (Evidence of such delivery must be available for inspection upon request by the Tax Commissioner or the Commissioner's Agents.)

I hereby declare under penalties of perjury that this statement has been examined by me and to the best of my knowledge and belief is a true, correct and complete statement.

Dealer's Name

License Number, if any

By-signature and title

Date signed



Exemption Certificate and Affidavit Regarding Sale of a Motor Vehicle, Off-Highway Motorcycle or All-Purpose Vehicle to an Out-of-State Resident

The undersigned purchaser hereby claims exemption from tax by certifying that on _____
the following motor vehicle, off-highway motorcycle or all-purpose vehicle was purchased from: *Date*

Name of Dealer/Seller

License Number, if any

Purchaser's Name

Street Address

City

State

Zip Code

Driver's license issued by state of _____ No. _____ Expiration Date _____

Year _____ Make _____ Model _____ Body Type _____

Vehicle Identification Number (VIN): _____

Name of State to be titled in _____ Purchase Price:\$ _____

The purchaser further certifies that he is a nonresident of this state, that possession of the motor vehicle, off-highway motorcycle or all-purpose vehicle is taken in this state for the sole purpose of immediately removing it from the State of Ohio. Further, that the motor vehicle, off-highway motorcycle or all-purpose vehicle will be permanently titled and registered in another state, and that the motor vehicle, off-highway motorcycle or all-purpose vehicle will not be used in the State of Ohio.

I have examined this affidavit and swear that same is true to the best of my knowledge and belief.

Purchaser's Signature

Sworn before me and subscribed in my presence this ____ day of _____, _____.
month *year*

Notary Public



Certificate of Exemption Regarding Sale of a Watercraft, Outboard Motor, or Personal Watercraft

The undersigned hereby claims exception or exemption on the purchase of the following described watercraft, outboard motor and/or personal watercraft purchased from:

Name of Vendor/Seller

Vendor's License Number, if any

Address of Vendor—street, city, state, zip code

Watercraft or Personal Watercraft:

Year _____ Make _____ Model _____ Length _____

Watercraft or Personal Watercraft Identification Number
(WIN): _____

Purchase Price: \$ _____

Outboard Motor:

Year _____ Make _____ Model _____ HP _____

Outboard Motor Serial
Number: _____

Purchase Price: \$ _____

And further certifies that this claim is based upon the purchaser's proposed use of the watercraft, outboard motor or personal watercraft purchased, the activity of the purchaser, or both, as shown hereon:

(Purchaser must state prescribed reason for claiming exception or exemption.)

Purchaser's Name

Purchaser's Activity, i.e., manufacturer, public utility, church, etc.

Purchaser's Address—number and street

City, state, zip code

By—signature and title

Date signed

Vendor's license, if any

(To be prepared in triplicate. Original to be retained by the vendor with two copies to the Clerk of Courts.)



Statement Regarding Sale of a Watercraft, Outboard Motor and/or Personal Watercraft in Interstate Commerce

The undersigned hereby certifies that on _____ the following described watercraft,
(date)
outboard motor and/or personal watercraft was sold to:

(name)

(street)

(city)

(state)

(zip code)

Watercraft or Personal Watercraft:

Year _____ Make _____ Model _____ Length _____

Watercraft or Personal Watercraft Identification Number (WIN): _____

Purchase Price: \$ _____

Outboard Motor:

Year _____ Make _____ Model _____ HP _____

Outboard Motor Serial Number: _____

Purchase Price: \$ _____

And further certifies that said watercraft, outboard motor or personal watercraft will be delivered to the purchaser on
the territorial limits of the state of Ohio at _____ pursuant to the terms of
(state)
agreement pertaining to this sale. (Evidence of such delivery must be available for inspection upon request by the Tax
Commissioner or the Commissioner's Agents.)

I hereby declare under penalties of perjury that this statement
has been examined by me and to the best of my knowledge
and belief is a true, correct and complete statement.

Dealer's Name

License Number, if any

By—signature and title

Date signed

(To be prepared in triplicate. Original to be retained by the vendor with two copies to the Clerk of Courts.)

